

JUST

JOURNAL
OF LANGUAGE RIGHTS
& MINORITIES

REVISTA DE DRETS
LINGÜÍSTICS
I MINORIES

Ideologies
and Language Rights
Meet (and Clash)

Interseccions (i conflictes)
entre ideologies i drets
lingüístics

Edited by
Rafael
Castelló-Cogollos
& Esther Monzó-Nebot

Vol. 2 (2)
2023



**Càtedra de
Drets Lingüístics**

Universitat
de València

UNIVERSITAT
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LanguageRightsMinorities.org, DretsLinguisticsMinories.org

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JOURNAL OF LANGUAGE
RIGHTS & MINORITIES

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SPECIAL ISSUE/NÚMERO MONOGRÀFIC

Ideologies and Language Rights Meet (and Clash)

Interseccions (i conflictes) entre ideologies i drets lingüístics

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To cite the special issue:

Rafael Castelló-Cogollos & Esther Monzó-Nebot, eds. 2023. "Ideologies and Language Rights Meet (and Clash)." Special issue, *Just. Language Rights & Minorities*, *Revista de Drets Lingüístics i Minories* 2 (2).

<https://doi.org/10.7203/Just.2.2>.



_ CONTENTS / Í N D E X

ARTICLES

- Desigualtats legitimades: drets lingüístics i ideologia / Legitimized inequalities: Language rights and ideology 7
Rafael Castelló-Cogollos & Esther Monzó-Nebot
- Is ambiguity a source of inequity? Nominalization in sustaining and effacing power asymmetries 55
Heather Adams & Víctor González-Ruiz
- What was the language of the judgment again?: Traces of bilingualism in monolingual judgments from South Tyrol, Italy 89
Alexander Teutsch
- El derecho a recibir información y el derecho a comunicar: claves de la política de traducción e interpretación en los centros penitenciarios de Rumanía 119
Bianca Vitalaru
- The glottopolitics of Països Catalans in the Valencian election of 28 May 2023 157
Vicente Lledó-Guillem
- Paratexts as gatekeepers in online global jihadist translation – The narrative of a blog-based Arabic translation of *Dabiq*. 189
Mennatallah Mansi



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RIGHTS & MINORITIES

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REVISTA DE DRETS
LINGÜÍSTICS I MINORIES

Desigualtats legitimades: drets lingüístics i ideologia / *Legitimized inequalities: Linguistic rights and ideology**

Rafael Castelló-Cogollos 

Esther Monzó-Nebot 

Per citar aquest article:

Castelló-Cogollos, Rafael & Esther Monzó-Nebot. 2023. «Desigualtats legitimades: drets lingüístics i ideologia». En «Interseccions (i conflictes) entre ideologies i drets lingüístics», edició de Rafael Castelló-Cogollos & Esther Monzó-Nebot. Número monogràfic, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 7–53.
<https://doi.org/10.7203/Just.2.27509>.

*This article is available in English on page 31.



© By the authors, 2023. JUST. JOURNAL OF LANGUAGE RIGHTS & MINORITIES, REVISTA DE DRETS LINGÜÍSTICS I MINORIES, VOL 2 (2), CÀTEDRA DE DRETS LINGÜÍSTICS – UNIVERSITAT DE VALÈNCIA. ISSN: 2952-2307

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Desigualtats legitimades: drets lingüístics i ideologia

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Resum

Aquest text emmarca els articles del número monogràfic sobre les interseccions entre les ideologies i els drets lingüístics de *Just. Journal of Language Rights & Minorities*, *Revista de Drets Lingüístics i Minories*. L'article ofereix una revisió dels conceptes bàsics que articulen el número, a través dels quals s'argumenta que les ideologies que aconseguixen predominança en les societats legitimen les desigualtats entre identitats socials, també en els marcs jurídics. La introducció posa l'èmfasi en el caràcter històric i dinàmic de les configuracions socials que estableixen relacions de dominació entre les identitats col·lectives. En aquest marc, la llengua esdevé un símbol d'identificació dels grups socials que encarna els conflictes entre grups. L'article finalitza destacant les contribucions dels articles publicats en el número a un diàleg que permeti visibilitzar els efectes de les ideologies lingüístiques i les distintes configuracions dels drets lingüístics en l'acceptació de les desigualtats entre identitats socials, com a primer pas per rebutjar-les.

Paraules clau: Drets lingüístics, ideologies lingüístiques, identitats col·lectives, dominació simbòlica, desigualtat social

Abstract

This contribution serves as the introductory framework for the articles featured in the special issue of *Just. Journal of Language Rights*

& Minorities, Revista de Drets Lingüístics i Minories exploring the intersections between ideologies and language rights. The article navigates through fundamental concepts, contending that prevailing ideologies within societies play a pivotal role in legitimizing inequalities among social identities, often within legal frameworks. The introduction underscores the historical and dynamic nature of social configurations that establish relationships of dominance among collective identities. Within this contextual backdrop, language emerges as a potent symbol, embodying the identification of social groups and encapsulating the conflicts that arise between them. The article concludes by highlighting the significance of the published articles in fostering a dialogue that brings to light the impact of language ideologies and of the varied manifestations of language rights on the acceptance of inequalities among social identities—an initial stride towards their eventual rejection.

Keywords: Language rights, language ideologies, collective identities symbolic dominance, social inequality.

1. Introducció

La llengua és un esforç comunitari. Aquesta afirmació, més que merament subratllar que tenim un codi compartit que ens permet construir societats, posa l'èmfasi en la coreografia intricada de la interacció humana. A través de la llengua, s'entrellacen els fils de les relacions que volem construir i les que cerquem evitar i, així, construïm la societat. En una relació dinàmica, llengua i societat es reflecteixen mútuament i comparteixen la capacitat de situar els individus en relació amb el món. D'una banda, la manera com triem i utilitzem les llengües dins els repertoris propis reflecteix les nostres aspiracions socials (Goffman 1956) i la necessitat (humana) de pertinença a un grup (Vygotsky 1962, 1978; Hall 1993, 1996). Des de la llengua en si fins a les paraules, les tries que fem comuniquen la nostra posició respecte d'altres (Weinreich, Labov & Herzog 1968; Bernstein 1971). De l'altra banda, la manera com utilitzem les llengües proporciona informació

que permet a d'altri situar-nos, en un grup, en un temps i en un espai construïts històricament i socioculturalment (Labov 1968; Gumperz 1982).

Triar i interactuar és un flux que ocorre en contextos socials estructurats per regles i normes, que són el resultat de les trajectòries històriques de les relacions en els espais socials. La llengua que usem assenyalava afiliacions, que gestionem en una cerca constant d'acceptació i connexió (Goffman 1961), o de rebuig i desvinculació (Joseph 2013). Adaptem com ens comuniquem per encaixar (Ervin-Tripp 1996), perquè ens entenguin (o no) i per alinear-nos amb normes que ens esforcem col·lectivament per mantenir i que encotillen les nostres possibilitats. La major part de les vegades, això ocorre al marge de la nostra consciència, fruit de les habituds que hem adquirit sense més esforç que el que necessitem per viure interaccionant amb altres persones. D'aquesta manera, interioritzem una disciplina que governa la interacció i assegura les jerarquies sense cap imposició concreta, d'una manera distribuïda i desindividualitzada (Foucault 1975). Així, en autoregular-nos, ens autoadministrem la dominació (Bourdieu 1977b).

Els usos lingüístics no són, per tant, casuals, ni tampoc innocents. Dins la simfonia dels intercanvis lingüístics sorgeixen relacions de domini que marquen pautes en els processos de presa de decisions, en la divisió del treball i en els marcs culturals predominants (Young 1990, 3). Aquests processos ens afecten com a membres dels grups als quals la resta de persones ens assigna en processos d'identificació que es basen en diverses característiques, com la riquesa de les famílies on venim al món i els recursos dels països on viuen, el gènere o el color de la pell amb què naixem o si tenim habilitats determinades, com pot ser l'oïda o la mobilitat. Les llengües són una d'aquestes qüestions atzaroses (ningú no tria la llengua en què aprèn a parlar) que distribueixen identitats i donen accés a portes obertes i tancades dins d'un context social (Fishman 1989). De fet, les llengües són un dels instruments més poderosos perquè aquestes portes continuen com són, oferint llocs complementaris en una estructura de dominació social (Bourdieu 1978). I així, en paral·lel a la motivació social, els usos lingüístics marquen relacions polítiques perquè les llengües signifiquen relacions polítiques (Gumperz 1982; Fairclough 1995; Joseph 2006), unes relacions sorgides de l'evolució dels grups que les parlen en els seus contextos històrico-polítics.

Les intencions expressives, les formes de realitzar-les i les condicions en què es produeixen estan unides indissolublement (Bourdieu 1977a). El coneixement compartit de la relació entre competència lingüística i context social és el que orchestra socialment el que se'ns permet parlar i el que se'ns permet dir (Bourdieu 1978; Tannen 1995). D'aquesta manera, les llengües i les paraules participen en l'assignació de les posicions que ocupem en la dinàmica social que dona accés a uns recursos mentre n'oculta d'altres. Les llengües —també— condicionen les possibilitats que se'ns ofereixen i els serveis als quals accedim pels dissenys polítics de les nostres societats. Al capdavant, les llengües i les paraules que usem participen en la distribució dels recursos i formen part del mecanisme de desigualtat que podem observar en les societats.

Igualment, la nostra capacitat de despertar la cooperació en el context que ens envolta és una opció política que totes les parts implicades exerceixen diàriament en el nivell de la interacció: amb qui parlem del temps o de la feina, de maneres d'obtenir ingressos o d'on gaudir de bona companyia, fins i tot la definició de qui és bona companyia depèn de l'heurística constant de les posicions socials pròpies i alienes. Amb aquesta feina de reproducció del tracte i la interacció, de selecció del capital que compartim, ruixem sobre mullat, reproduint estratègicament fretures i abundàncies i, consegüentment, harmonitzant les desigualtats socials, els usos lingüístics i, per tant, també les ideologies (Seligson & Berk-Seligson 1978).

Aquesta feina diària que assumeixen més o menys inconscientment les persones cristal·litza en estructures i institucions que reforcen socialment i políticament les ideologies que accedeixen als processos de decisió, assignen posicions en la divisió del treball i governen els marcs culturals dominants i, així, reforcen les desigualtats (Berger & Luckmann 1966, 194). Igual que forma part de les pràctiques sociopolítiques, la llengua s'escola en les estructures sociopolítiques, donant lloc a drets que s'articulen en marcs jurídics, pràctiques i creences (Spolsky 2004) que guien les inversions col·lectives de recursos (Monzó-Nebot & Mellinger 2022) i les privacions que s'imposen col·lectivament a determinats grups (Castelló-Cogollos 2022), alhora que condicionen les interaccions concretes i les possibilitats d'invertir el capital lingüístic propi amb resultats positius (p. ex., Tonkin 2011). Dins d'aquesta xarxa, el dret d'utilitzar una

llengua implica indissociablement la possibilitat de gaudir de la comunicació necessària per fer efectius altres drets (Phillipson & Skutnabb-Kangas 1995; Patten & Kymlicka 2003). Per contra, però complementàriament, la impossibilitat d'invertir el capital lingüístic propi en un context determinat pot barrar l'accés a la justícia, a la comprensió normativa o a la participació política, social i econòmica.

Les estructures de desigualtat social que s'estableixen a partir de la possibilitat o impossibilitat d'utilitzar les llengües requereixen mecanismes de legitimació perquè siguin acceptades pacíficament per les persones (Lenski 1966; Burawoy 2012). Aquestes eines de legitimació de les desigualtats són les ideologies, les idees acceptades com a mapes d'un territori sociotemporal (Geertz 1993) que institucionalitzen usos i els donen una aparença de naturalitat (Eagleton 1991). A més a més, unes ideologies poden aconseguir més legitimitat que d'altres pel seu accés a les esferes de decisió, entre les quals el sistema jurídic esdevé clau. La cristallització de les ideologies en normes jurídiques hi afegeix un element coercitiu que en naturalitza la superioritat. Quan entren en joc les ideologies lingüístiques, les desigualtats derivades dels usos lingüístics poden donar lloc a distints drets lingüístics.

A través de les dimensions comunicatives i simbòliques de les llengües, de les associacions que estableixen amb categories socials que defineixen el valor de les identitats, les llengües obren i tanquen portes de possibilitats i, així, es poden invertir i acumular estratègicament per accedir a altres recursos (Skutnabb-Kangas & Phillipson 1995; Patten & Kymlicka 2003). Entendre aquesta intricada relació entre llengües, drets i recursos ens permet desentranyar les capes d'interacció humana i enfrontar-nos a les disparitats teixides en les paraules i en les llengües que parlem, alhora que ens permet entendre les reaccions contra altres llengües —també les reaccions contra la traducció, que pot trastocar identitats reubicant les llengües (Venuti 2005). Les disparitats agafen dimensions noves en un món globalitzat, on la complexitat de les relacions entre ideologies i drets lingüístics s'incrementa (Bauman 1998; Blommaert 2010). La mobilitat creixent de poblacions arreu del món (Aretxaga 2003; Adserà & Pytliková 2015), l'expansió dels processos de digitalització que posen en perill les llengües minoritzades (Kornai 2013), el progrés de les llengües protegides pels poders polítics (Phillipson 1992)

són processos, entre d'altres, que multipliquen les situacions en què l'existència o absència de drets lingüístics —entre aquests, el dret a la traducció— força les persones a trobar la lògica de les desigualtats i justificar situacions en què la ideologia i els drets lingüístics es troben i poden entrar en conflicte.

Des de la consciència de les dinàmiques de poder i dominació que impliquen les nostres opcions lingüístiques, aquest número especial pretén fomentar un diàleg més inclusiu i equitatiu. En aquesta introducció, es revisen les dues línies argumentals principals que sosté el monogràfic: que dels drets lingüístics depenen les oportunitats de les comunitats lingüístiques i, per tant, de les persones; i que la dominació és un procés multidimensional (o interseccional) que es construeix sobre ideologies col·lectives que atorguen capital simbòlic (valor) a unes pràctiques i no a d'altres, tot generant processos de dominació de base simbòlica (Bourdieu 1977b). Bastint sobre aquestes línies, la tesi que defensa el número monogràfic «Interseccions (i conflictes) entre ideologies i drets lingüístics» és que les ideologies legitimen les desigualtats socials generades per una distribució no equitativa de drets i recursos lingüístics.

2. Drets lingüístics i desigualtat social

La consagració d'opcions lingüístiques en drets reconeguts jurídicament implica una solució determinada a una confrontació situada. El dret positiu sorgeix d'un conflicte i cristal·litza les formes que han aconseguit presència i preeminència en les esferes de presa de decisions. D'aquesta manera, els drets lingüístics positivitzats responen a una forma concreta d'imaginar la societat i les comunitats que la configuren, que aconsegueix legitimitat en i a través de la formulació i l'aplicació de drets. Des d'aquesta legitimitat, el marc jurídic va escolant-se per les distintes esferes socials fins arribar a l'experiència individual, on ofereix experiències reiterades, que socialitzen pràctiques i creences de maneres que reforcen els valors i la legitimitat (o naturalitat) dels arranjaments lingüístics per al conjunt de la societat.

Aquest procés invisibilitza els interessos, però també les experiències i les perspectives de part de la societat, que ha d'invertir per adaptar-se als motlles

configurats pels arranjaments legimitats, és a dir, pagar l'impost de la minoria (Rodríguez, Campbell & Pololi 2015). Entre d'altres inversions, la d'aprendre altres llengües (Fishman 1993) pot entreobrir portes, però aquesta inversió que pot donar accés a determinats espais no assegura l'accés a l'equitat. Ans al contrari, deixar les posicions socials que ens atribueix l'estructura pot resultar més complex. Com comentàvem adés, la llengua no és una eina merament comunicativa. Si ho fora, efectivament, aprendre'n implicaria obrir la porta de la igualtat amb altres grups de població. El que ho complica, però, és que la llengua té un significat social en si mateix com a categoria d'agrupació social (Norton 2010): les llengües i variants ens cataloguen socialment i ens atribueixen valors i característiques específiques socialment organitzades i entreteixides (Bourdieu 1978). El reconeixement d'aquestes característiques pot activar la nostra assignació original a un grup determinat. Per exemple, parlar les llengües de maneres que es consideren foranes o impròpies pot generar mecanismes d'exclusió (Ryan & Carranza 1977; Lippi-Green 1994; Swales 1997; Rosa & Flores 2017). A la fi, la llengua no és el conflicte, sinó el símbol del conflicte entre grups socials que estableixen relacions de competència en un context de dominació.

Les creences culturals, que la llengua reproduïx (Winter & Pauwels 2006), reforcen les estructures de dominació descartant convenientment tot allò que ja és exclòs, atribuint-li falta de necessitat o de valor. Per exemple, assumir que les comunitats bilingües no necessiten la llengua minoritzada per a comunicar-se perquè coneixen la dominant (la clau del bilingüisme ideològic, asimètric o unilateral) silencia les necessitats bàsiques de tractament digne en el conveni social. Igualment, presentar la llengua dominant com a opció per medrar i accedir al cosmopolitisme (un mite reconegut com a central de la ideologia monolingüe, vg. Phillipson, Rannut & Skutnabb-Kangas 1995) menysté les capacitats dels individus que usen llengües que es troben, en un context o un altre, en una situació minoritzada. Aquests i altres mites derivats de la metanarrativa o el protomite del monolingüisme (Monzó-Nebot 2023) sincronitzen creences i orquestren actuacions que permeten ignorar tot allò que no es correspon amb les ideologies dominants, inclòs el valor de les llengües minoritzades, les perspectives de qui les parla i, per tant,

la necessitat de reconèixer-los drets. D'aquesta manera, l'exclusió confirma la norma.

Seguint aquesta lògica, els models polítics d'Estat han pressuposat tradicionalment que la població comparteix una llengua comuna. Aquesta llengua pretesament comuna és la del grup dominant, que accedeix a les esferes de decisió, imposa els models culturals i ocupa les posicions privilegiades de la divisió social del treball. Des de la posició d'aquest grup, l'ús d'una llengua arreu i la manca de necessitat d'altres és una assumpció natural i desproveïda de problemes, derivada de les zones que la pròpia experiència il·lumina o manté en la foscor. Tot i així, l'elecció de llengua afecta els àmbits més diversos de la vida de cada dia, centrals en les disputes lingüístiques quotidianes (Patten & Kymlicka 2003, 16- 25). Els usos interns en l'Administració pública, la comunicació entre l'Administració pública i de justícia i la població, l'educació o, també, els usos privats permesos o obligats, el tracte lingüístic donat a la població migrada, per l'Administració i per la població ja resident, són qüestions que requereixen decisions públiques sobre les llengües, decisions que acaben traduïdes en drets lingüístics i exclusions lingüístiques.

Aquestes decisions poden crear marcs de distinta tipologia (Patten & Kymlicka 2003, 26-31). Des del punt de vista de les oportunitats (i desigualtats) socials, el que ens interessa és que els Estats funcionen amb un nombre limitat de llengües, la qual cosa genera problemes per a l'accés lingüístic als drets civils, polítics i socials de part de la societat. Els drets lingüístics són eines que poden ajudar a superar eixos problemes d'accés o perpetuar-los. Quan les comunitats lingüístiques es visibilitzen i entren en el radar de la formulació de drets, aquests han d'atendre a la dimensió comunicativa, però també a les dinàmiques socials de dominació. D'una banda, els drets *instrumentals* atendien les primeres (Rubio-Marín 2003). De l'altra, els drets *no instrumentals* (Rubio-Marín 2003) busquen defensar les comunitats minoritzades de la pressió que exerceixen les dominants i se centren a promocionar processos propis de presa de decisions, les pràctiques culturals pròpies i la correcció de jerarquies en la divisió del treball.

La conceptualització d'aquests drets i el seu poder per corregir desigualtats no implica que caminem cap a un món on la discriminació per raó de llengua

(o, millor dit, grup lingüístic) estiga desapareixent. Ans al contrari, mentre que les discriminacions envers els grups no dominants definits per gènere, procedència ètnica o diversitat funcional (entre moltes altres) van visibilitzant-se i redreçant-se, les societats continuen mantenint discriminacions per raons de llengua amb molta naturalitat (Skutnabb-Kangas & Phillipson 1995). Aquesta naturalitat es tradueix en mecanismes que fan que l'aplicabilitat dels drets siga qüestionable i les jerarquies puguin mantenir-se. Des de la imprecisió en la formulació d'obligacions (Phillipson & Skutnabb-Kangas 1995) fins a la manca de mecanismes sancionadors en cas d'incompliment (Turi 1995, 116), els drets i les oficialitats poden esdevenir merament teòrics o superficials (Leung 2019). Igualment, la visió dels drets lingüístics com a divisibles, això és, conceptualitzar com a separats els drets instrumentals i els no instrumentals, serveix per situar una comunitat lingüística per damunt de les altres, enaltint-ne una de sola com a dipositària del conjunt de drets. Així, s'estableixen drets no instrumentals per a les anomenades minories nacionals, com fa, per exemple, la Carta Europea de Llengües Regionals o Minoritàries (Consell d'Europa 1992), i drets instrumentals per a les comunitats migrants, com ara la Directiva 2010/64/UE (Parlament Europeu & Consell de la Unió Europea 2010). Com els drets humans (Annan 2005), per ser efectius els drets lingüístics han de ser indivisibles i només d'aquesta manera poden ser un mecanisme eficient contra les jerarquies que imposen una dominació opressiva sobre la major part de grups lingüístics del món. Distribuir un reconeixement parcial reproduïx la jerarquia en què només la comunitat de la llengua dominant pot desenvolupar-se plenament. Dividir artificiosament les funcions de la llengua implica negar-ne el poder de classificar-nos o la rellevància de les classificacions per a les oportunitats a què accedim i les desigualtats derivades (Therborn 2013, 49). Amb aquest silenciament, les comunitats dominants asseguren la pervivència de les estructures de dominació.

3. Ideologies i identitats: Dominació i desigualtat

Les ideologies són conjunts de creences, valors i idees que tenen efectes de gran abast en la vida social. Ariño Villarroja (1997) assenyala que el

concepte d'ideologia juga un paper central en la comprensió de quatre problemàtiques de la modernitat: crear coneixement fiable, on la ideologia és responsable de representacions falses i il·lusòries de la realitat (vg. Mannheim 1929); legitimar formes de dominació social, on la ideologia legitima aquesta dominació i oculta tot allò que la contradiu (vg. Marx 1867; Bourdieu 1974); mobilitzar la població, on la ideologia uneix en l'acció construint identitats col·lectives amb interessos comuns (vg. Gramsci 1977); i descriure, comprendre, analitzar i explicar els universos plurals de significats de les societats modernes, on la ideologia és un conjunt de representacions, pressuposicions, creences i valors mitjançant els quals es produeix el significat de l'ésser en el món (vg. Geertz 1993).

Com a mínim denominador comú, les ideologies són conjunts més o menys coherents d'idees que conformen la manera com els individus perceben i interpreten el món i en condicionen l'actuació. Les ideologies ofereixen punts de partida per a dotar de sentit la nostra experiència en societat. Proporcionen un mapa que permet resoldre les dificultats de la realitat social per entendre-la i navegar-la (Geertz 1993, 220). Alhora, generen adhesió al grup en oferir un marc comú d'interpretació, una mena de consciència col·lectiva «defining (or obscuring) social categories, stabilizing (or upsetting) social expectations, maintaining (or undermining) social norms, strengthening (or weakening) social consensus, relieving (or exacerbating) social tensions» (Geertz 1993, 203).

Des d'aquest punt de vista, les ideologies naturalitzen la nostra experiència social, la fan fluïda i coordinada, de manera que passen desapercebudes. Si més no, mentre no n'acaren d'altres. Quan això ocorre, quan distints mapes del mateix espai social se superposen, sorgeixen els conflictes, que són

luttres pour le monopole du pouvoir de faire voir et de faire croire, de faire connaître et de faire reconnaître, d'imposer la définition légitime des divisions du monde social et, par là, de faire et de défaire les groupes : elles ont en effet pour enjeu le pouvoir d'imposer une vision du monde social à travers des principes de division qui, lorsqu'ils s'imposent à l'ensemble d'un groupe, font le sens et le consensus sur le sens, et en particulier sur l'identité et l'unité du groupe, qui fait la réalité de l'unité et de l'identité du groupe. (Bourdieu 1980, 65)

Les identitats dels grups es configuren a partir dels elements de classificació social i són conseqüència de les dinàmiques d'interacció (Barth 1969). Són productes històricament contingents, resultats de relacions de poder determinades entre grups socials, amb identitats socials diferents, que es distingeixen per la seua visió (i divisió) de la realitat.

Aquestes visions i divisions es formen, es transformen i es reproduïxen en gran mesura a través de discursos i interaccions comunicatives arrelats socialment (Van Dijk 1998, vii). Entren en conflicte quan ofereixen interpretacions incompatibles i, llavors, poden trontollar o requerir estratègies per adaptar-se a tot allò que visibilitza les contradiccions dels mites propis. Aquestes estratègies podrien seleccionar el que es vol tenir en compte i excloure la resta; assignar valors negatius al que pot posar en perill les creences; oposar-se frontalment als atributs d'altres identitats; i naturalitzar les característiques de la identitat pròpia (Larrain 1994). En definitiva, l'eficàcia d'una identitat social per a definir la realitat depèn del poder per a seleccionar, avaluar, oposar i naturalitzar determinades característiques i no unes altres, de la capacitat per a imposar com a veritat social una determinada manera de veure la realitat, amb independència de la seua certesa. I la capacitat per a produir aquestes veritats socials no està distribuïda socialment de manera equitativa.

Identity is formed by social processes. Once crystallized, it is maintained, modified, or even reshaped by social relations. The social processes involved in both the formation and the maintenance of identity are determined by the social structure. (Berger & Luckmann 1966, 194)

Aquests processos socials han adquirit més i més complexitat amb la globalització de les relacions, l'increment de contactes interculturals —amb i sense traducció— i l'aparició de tecnologies que permeten el contacte amb ideologies alternatives, alhora que construir i redefinir comunitats distants i relacions intergrupals (White, Abu-Rayya & Weitzel 2014). Darrerament, l'auge de les aplicacions de la intel·ligència artificial aporta una dimensió nova a les possibilitats de reproducció d'ideologies, també d'ideologies lingüístiques (p. ex., Tasa Fuster, Monzó-Nebot & Castelló-Cogollos 2023).

En la producció i reproducció de les ideologies i identitats lingüístiques, les verbalitzacions i construccions mentals tenen un pes notable, però també s'expressen en pràctiques i disposicions incorporades (Gal 1998, 319), així com en esdeveniments materials, en arranjaments institucionals i representacions objectivades que conformen l'experiència dels membres en la comunitat (paisatge lingüístic, model escolar, mitjans de comunicació, jutjats, etc.). Així, les ideologies atorguen valor a determinades pràctiques lingüístiques o els en lleven, estableixen premis i càstigs socials i econòmics per raó de llengua i donen suport a la dominació social, en assegurar l'ocultació de l'arbitrarietat fonamental del seu valor (Bourdieu 1978; Silverstein 2012; Woolard 2020).

Aquesta ocultació de l'arbitrarietat en l'assignació de valors als capitals lingüístics en les ideologies serveix de mecanisme pel qual s'aconsegueix la col·laboració dels grups dominats en les estructures de dominació (p. ex. Bourdieu 1998, cap. 3). Es tracta d'un mecanisme pel qual es valida i justifica l'existència d'un tracte social desigual, en convèncer la població que les desigualtats socials experimentades són distincions legítimes. D'aquesta manera, les ideologies legitimen les desigualtats —vitals, existencials i de recursos (Therborn 2013)—, de les quals fan part les desigualtats lingüístiques, que causen fretures greus, com la desigualtat vital que es deriva de la falta d'accés a serveis mínims i drets bàsics en negar el dret a traducció i interpretació (p. ex., Wallace & Hernández 2017), la desigualtat existencial, per la qual uns grups reben tractes palesament discriminatoris generant una jerarquia d'existències humanes (Roche 2022), i la desigualtat de recursos, que ofereix menys o més oportunitats per a l'acció a les distintes comunitats en funció de la llengua que parlen (Heller & McElhinny 2017).

4. Interseccions (i conflictes) entre ideologies i drets lingüístics

El fil conductor d'aquest número monogràfic de *Just* és que les ideologies construeixen desigualtats en legitimar una distribució no equitativa de drets entre comunitats lingüístiques diferents. Els articles aborden els processos de construcció de les desigualtats a través de la construcció de les identitats i els efectes que tenen aquests processos en els drets dels individus i els col·lectius. Les dife-

rents contribucions visibilitzen les ideologies que naturalitzen les desigualtats i seleccionen, avaluen i s'oposen a les identitats foranes des de diversos eixos que interseccionen amb la llengua —la classe social (Adams & González-Ruiz), la religió (Mansi) i la desviació social penada (Vitalaru)— i agafant la llengua com a classificador social (Teutsch; Lledó-Guillem).

Dos articles tracten qüestions relatives a la construcció de les identitats a partir d'elements lingüístics: la instrumentalització de la traducció com a forma de presentar els sistemes judicials com a sistemes coherents i homogenis (Teutsch) i la construcció, reconstrucció i desconstrucció d'una societat a través de la representació del seu teixit lingüístic i de la llengua que parla (Lledó-Guillem). Els altres tres revisen com la visió i divisió social limiten l'accés de determinades comunitats lingüístiques a recursos bàsics per a la vida social i política: la comprensió de procediments dissenyats per evitar l'exclusió en un llenguatge que per la seua inoperabilitat exclou les poblacions més vulnerables (Adams & González-Ruiz); l'accés a la informació i la disposició de comunicació de la població reclusa de llengües diferents a l'oficial (Vitalaru); i el foment de l'actuació violenta contra grups definits com a enemics des d'una ideologia que no tan sols legitima l'exclusió sinó també l'extermini (Mansi).

Més concretament, l'article de Heather Adams i Víctor González-Ruiz analitza la tendència a la nominalització en el discurs jurídic i assenyalava les conseqüències perjudicials que pot comportar l'omissió de l'agent. Per a fer-ho utilitza un cas amb un estudi qualitatiu sobre l'ús de substantius en textos informatius de la Seguretat Social de l'Estat espanyol. Les conclusions assenyalen que la nominalització interactua amb altres elements lingüístics en textos que no poden arribar a un públic no especialista i li dificulten (o barren) l'accés a ajudes econòmiques determinants per al seu benestar. L'article «Is ambiguity a source of inequity? Nominalization in sustaining and effacing power asymmetries» explora com les pràctiques lingüístiques poden posicionar determinades poblacions en una situació de desigualtat en l'accés a recursos que perpetua la seua exclusió.

L'aportació d'Alexander Teutsch («What was the language of the judgment again?: Traces of bilingualism in monolingual judgments from South Tyrol,

Italy») destaca la tensió entre el multilingüisme social i la ideologia monolingüe en el sistema judicial. L'article estudia les pràctiques lingüístiques de tribunals multilingües quan els recursos necessaris estan disponibles només en una llengua diferent de l'oficial. Per fer-ho, analitza sentències de l'àmbit penal escrites en alemany en jutjats de pau de la província bilingüe (alemany/italià) del Tirol del Sud (Itàlia). Els resultats deixen veure que les traces de l'italià es van introduint cada vegada amb més claredat en les sentències escrites en alemany. L'article proposa un enfocament alternatiu, que combina la cita directa de l'italià i la traducció a l'alemany com a mecanismes que permeten garantir la seguretat jurídica possibilitant una comprensió adequada a totes les parts interessades. La proposta s'orienta a superar el monolingüisme per tal d'avançar cap a la igualtat d'accés a recursos no lingüístics per mitjà d'una política lingüística instrumental.

En tercer lloc, l'article de Bianca Vitalaru («The right to receive information and the right to communicate: Keys to translation and interpreting policy in Romanian prisons») analitza la legislació penitenciària romanesa per qualificar l'element normatiu de les polítiques de traducció i interpretació que busquen assegurar els drets dels presos que no parlen romanès. L'estudi introdueix una distinció novedosa i rellevant per distingir entre el dret a la informació i el dret a la comunicació, per determinar si la legislació proporciona els mateixos drets als presos estrangers. A partir d'una comparació amb instruments internacionals, aquests s'agafen com a referència per determinar quantes de les situacions discursives que impliquen la necessitat de traducció i interpretació per garantir drets protegits s'han traslladat a la legislació romanesa. El treball conclou que el sistema penitenciari romanès manté desequilibris entre les mesures adoptades per al gaudi dels drets de comunicació i informació i obre el debat sobre fins a quin punt la legislació silencia a la població carcerària que no parla romanès.

Vicente Lledó-Guillem centra la seua aportació («The glottopolitics of Països Catalans in the Valencian elections of 28 May 2023») en la construcció ideològica de les relacions entre el català, el valencià i l'espanyol en els discursos de la dreta valenciana. Es tracta d'una aportació d'urgència incentivada per la victòria electoral dels partits d'ideologia

conservadora al País Valencià, que ha suposat l'entrada en el govern autonòmic de l'extrema dreta per primera vegada des de la transició democràtica espanyola. Amb el contrast entre les ideologies lingüístiques d'autenticitat i d'anonimat, Lledó-Guillem mostra com els acords de govern entre el PP i VOX en la Generalitat Valenciana impliquen de fet l'esborrat del valencià com a referent de la identitat valenciana. Una construcció ideològica que, a la manera d'un palimpsest, suposa la substitució de la referència catalana per la referència castellana en la construcció identitària valenciana.

Mennatallah Mansi investiga en el seu article («Paratexts as gatekeepers in online global jihadist translation — The narrative of a blog-based Arabic translation of Dabiq») el paper de control que exerceix la traducció en la transmissió de la ideologia gihadista global a les comunitats de parla àrab. L'autora situa la traducció com una peça clau de la gihad i realitza un estudi sobre els elements paratextuals que permeten donar visibilitat a l'agència i la ideologia de qui tradueix. Agafant el cas d'un bloc on es van publicar traduccions a l'àrab de textos clau de la ideologia gihadista, aquesta contribució posa en el centre l'agència del traductor responsable i estudia la narrativitat dels mecanismes paratextuals a través dels quals agafa visibilitat. L'autora demostra com el traductor va reconstruir els marcs dels textos en funció, d'una banda, d'aspectes socioculturals de les comunitats lingüístiques a les quals adreçava un missatge de mobilització i, de l'altra, dels resultats de la campanya gihadista, amb la voluntat d'adaptar les narratives per incrementar-ne l'impacte sobre les accions futures de les comunitats destinatàries.

En conjunt, els articles d'aquest monogràfic argumenten de manera convincent la necessitat de continuar la recerca en els mecanismes de construcció de la diferència i en com aquests poden afectar les oportunitats vitals, existencials i de recursos de les comunitats lingüístiques. Portar a la pràctica els drets de només una part de les comunitats no té justificació, però sí dinàmiques causals. Conèixer-les i visibilitzar la manca de naturalitat d'ideologies i jerarquies és un pas per restaurar-ne la dignitat, oferir-los igualtat de recursos i assegurar-ne la supervivència.

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JUST

JOURNAL OF LANGUAGE
RIGHTS & MINORITIES

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REVISTA DE DRETS
LINGÜÍSTICS I MINORIES

Legitimized inequalities: Linguistic rights and ideology / *Desigualtats legitimades: drets lingüístics i ideologia*

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To cite this article:

Castelló-Cogollos, Rafael & Esther Monzó-Nebot. 2023. "Legitimized inequalities: Linguistic rights and ideology." In "Ideologies and Language Rights Meet (and Clash)," edited by Rafael Castelló-Cogollos & Esther Monzó-Nebot. Special issue, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 7–53.

<https://doi.org/10.7203/Just.2.27509>.



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Legitimized inequalities: Linguistic rights and ideology

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Abstract

This contribution serves as the introductory framework for the articles featured in the special issue of *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* exploring the intersections between ideologies and language rights. The article navigates through fundamental concepts, contending that prevailing ideologies within societies play a pivotal role in legitimizing inequalities among social identities, often within legal frameworks. The introduction underscores the historical and dynamic nature of social configurations that establish relationships of dominance among collective identities. Within this contextual backdrop, language emerges as a potent symbol, embodying the identification of social groups and encapsulating the conflicts that arise between them. The article concludes by highlighting the significance of the published articles in fostering a dialogue that brings to light the impact of language ideologies and of the varied manifestations of language rights on the acceptance of inequalities among social identities—an initial stride towards their eventual rejection.

Keywords: Language rights, language ideologies, collective identities symbolic dominance, social inequality.

Resum

Aquest text emmarca els articles del número monogràfic sobre les interseccions entre les ideologies i els drets lingüístics de *Just. Journal of*

Language Rights & Minorities, Revista de Drets Lingüístics i Minories. L'article ofereix una revisió dels conceptes bàsics que articulen el número, a través dels quals s'argumenta que les ideologies que aconseguixen predominança en les societats legitimen les desigualtats entre identitats socials, també en els marcs jurídics. La introducció posa l'èmfasi en el caràcter històric i dinàmic de les configuracions socials que estableixen relacions de dominació entre les identitats col·lectives. En aquest marc, la llengua esdevé un símbol d'identificació dels grups socials que encarna els conflictes entre grups. L'article finalitza destacant les contribucions dels articles publicats en el número a un diàleg que permeti visibilitzar els efectes de les ideologies lingüístiques i les distintes configuracions dels drets lingüístics en l'acceptació de les desigualtats entre identitats socials, com a primer pas per rebutjar-les.

Paraules clau: Drets lingüístics, ideologies lingüístiques, identitats col·lectives, dominació simbòlica, desigualtat social

1. Introduction

Language is a community endeavor. This statement, rather than merely emphasizing that shared linguistic codes allow individuals to build societies, places the emphasis on the intricate choreography of human interaction. Through language, individuals weave together the threads of the relationships they aspire to build and protect themselves from those they seek to avoid, constructing the very fabric of societies. In a dynamic interplay, both language and society reflect each other, jointly possessing the capacity to position each person within the complex framework of the world. On the one hand, the selection and use of languages within one's own repertoire reflect social aspirations (Goffman 1956) and the (human) need for belonging (Vygotsky 1962, 1978; Hall 1993, 1996). From the language itself to the specific words, the choices made convey positions with respect to others (Weinreich, Labov & Herzog 1968; Bernstein 1971). On the other hand, the way languages are used

offers information, enabling other members of society to situate each individual within a group, in a historically and socioculturally constructed time and space (Labov 1968; Gumperz 1982).

The process of choosing and interacting unfolds within social contexts governed by rules and norms, shaped by the historical trajectories of relationships within societal spaces. The language used serves as a signaling mechanism for affiliations, constituting a continuous exploration of acceptance and connection (Goffman 1961) or, conversely, rejection and disengagement (Joseph 2013). Individuals adjust communication patterns to fit in (Ervin-Tripp 1996), to be understood (or to prevent understanding), aligning their behavior with norms that they collectively strive to maintain, and that constrain their possibilities. Most often, this adaptation occurs unconsciously, as a byproduct of habits acquired through routine interactions essential for daily living. Through this process, a discipline is internalized that governs interactions and subtly establishes hierarchies without any specific overt imposition but rather in a distributed and de-individualized manner (Foucault 1975). Consequently, by self-regulating, forms of domination are self-administered (Bourdieu 1977b).

Linguistic usage and language choice are not, therefore, casual, nor are they innocent. Within the symphony of linguistic exchanges, dominance relations emerge, shaping patterns in decision-making processes, in the division of labor, and in prevailing cultural frameworks (Young 1990, 3). These processes impact individuals as members of the groups to which others assign them in identification processes that are based on various characteristics, including the wealth of the families to which one is born or the resources of the country of which one is a national, the color of one's skin, or whether one has particular abilities, such as hearing or mobility. Languages are one of these arbitrary issues (no one chooses the language in which they learn to communicate) that distribute identities and access to open and closed doors within social contexts (Fishman 1989). In fact, languages stand as one of the most powerful instruments to ensure that these doors remain as they are, offering mutually complementary roles within a structure of social domination (Bourdieu 1978). Consequently, parallel to marking social motivation, linguistic uses delineate political relationships because languages signify political relationships (Gumperz 1982; Fairclough 1995; Joseph

2006). These relationships evolve from the historical and political contexts of the groups that use them.

Expressive intentions, their specific realizations, and the conditions in which they are produced are inextricably linked (Bourdieu 1977a). The collective understanding of the connection between linguistic competence and social context socially orchestrates what individuals are allowed to speak and what they are allowed to say (Bourdieu 1978; Tannen 1995). This way, languages and words actively contribute to assigning social positions within the dynamics of society, granting access to certain resources while concealing others. Languages—*also* languages—shape access to services in alignment with the political design of a society. Ultimately, languages and the words used play a crucial role in the distribution of resources and are integral components of the mechanisms underpinning societal inequality.

Similarly, the capacity to elicit cooperation within an individual's immediate milieu is a political decision exercised by all parties in daily interactions. Conversations may revolve around time or work, ways of obtaining income or where to enjoy good company depending on who is being talked to, and similarly the definition of who is considered good company is contingent upon the constant heuristics regarding one's own and others' social positions. Through the reproduction of treatment patterns, interaction choices, and the selective sharing of capital, a strategic orchestration of scarcities and abundances occurs, which harmonizes social inequalities, language use and, consequently, ideologies (Seligson & Berk-Seligson 1978).

This daily labor, often assumed with varying degrees of consciousness, crystallizes into structures and institutions that socially and politically bolster the ideologies present at the decision-making tables, assigning positions in the division of labor, and governing dominant cultural frameworks, thereby reinforcing existing inequalities (Berger & Luckmann 1966, 194). Much like being an integral part of sociopolitical practices, language permeates sociopolitical structures, generating rights that are articulated in legal frameworks, practices, and beliefs (Spolsky 2004). These, in turn, guide collective resource investments (Monzó-Nebot & Mellinger 2022) and the collective imposition of deprivations on specific groups (Castelló-Cogollos 2022). Simultaneously, the resulting rights

and policies condition specific interactions and the potential positive outcomes of investing one's linguistic capital (e.g., Tonkin 2011). Within this network, the right to use a language inherently implies the possibility of accessing the communication necessary to realize other rights (Phillipson & Skutnabb-Kangas 1995; Patten & Kymlicka 2003). Conversely, but complementarily, the inability to invest one's linguistic capital in a given context may impede meaningful access to justice, understanding of rules and regulations, and participation in political, social, and economic spheres.

The structures of social inequality, rooted in the possibility or impossibility to use languages, necessitate mechanisms of legitimation so that they can be peacefully accepted by individuals (Lenski 1966; Burawoy 2012). Ideologies—the ideas accepted as maps of a sociotemporally defined territory (Geertz 1993) that institutionalize uses and give them a halo of naturalness (Eagleton 1991)—serve as the means for legitimizing inequalities. Moreover, certain ideologies may garner heightened legitimacy, particularly when incorporated into decision-making spheres, with the legal system assuming a pivotal role. The crystallization of ideologies into legal norms introduces a coercive dimension, further naturalizing hierarchies. When language ideologies come into play, inequalities arising from linguistic uses can give rise to differing language rights.

Through the communicative and symbolic dimensions of languages, along with the associations they forge with social categories that define the value of identities, languages function as gatekeepers of possibilities. Consequently, they can be strategically invested and accumulated to access various resources (Skutnabb-Kangas & Phillipson 1995; Patten & Kymlicka 2003). Recognizing this intricate relationship between languages, rights, and resources can unravel the layers of human interaction, facilitating the scrutiny of disparities woven into the words and languages used. Simultaneously, it enhances a comprehension of the reactions against other languages—and targeting also translation, based on its power to disrupt identities by repositioning languages (Venuti 2005). These disparities acquire new dimensions in a globalized world, where the intricate connections between ideologies and language rights are intensifying (Bauman 1998; Blommaert 2010). The heightened global mobility of populations (Aretxaga 2003; Adserà & Pytliková 2015), the expanding influence

of digitalization processes jeopardizing minority languages (Kornai 2013), and the advancement of languages protected by political powers (Phillipson 1992) are among the factors that multiply situations wherein the existence or absence of language rights, including translation, compels individuals to find a logic and justification for inequalities in situations where ideology and language rights meet and may clash.

Based on an awareness of the dynamics of power and dominance inherent in linguistic choices, this special issue seeks to cultivate a more inclusive and equitable dialogue. In this introduction, the two primary lines of argument that underlie the thematic focus of this special issue are expounded: firstly, that the prospects of language communities, and consequently individuals, hinge on language rights; and secondly, that domination is a multidimensional (or intersectional) process rooted in collective ideologies that allocate symbolic capital (value) to specific practices while neglecting others. This generates processes of symbolic domination (Bourdieu 1977b). Drawing on these foundational lines, the thesis advanced by the special issue “Ideologies and Language Rights Meet (and Clash)” asserts that ideologies serve to legitimize social inequalities arising from an inequitable distribution of rights and resources.

2. Language rights and social inequality

The codification of linguistic options within legally recognized rights represents a particular resolution to a situated conflict. Positive law arises from conflicts and crystallizes the forms that have attained visibility and prominence within decision-making spheres. Consequently, positivized language rights result from a distinct societal imagination and conceptualization of communities. This conceptualization gains legitimacy in and through the formulation and implementation of the law. This legitimacy, rooted in legal frameworks, permeates various social spheres, eventually reaching the individual experience. Within this individual experience, the legal framework infiltrates recurrent encounters, impinging upon practices and beliefs, which

in turn reinforce the values and legitimacy (or perceived naturalness) of linguistic arrangements for society as a whole.

This process renders invisible not only the interests but also the experiences and perspectives of a segment of society, compelling them to invest in conforming to the molds prescribed by legitimacy arrangements. In essence, these individuals incur what is referred to as the minority tax (Rodríguez, Campbell & Pololi 2015). One form of such a tax involves acquiring proficiency in additional languages (Fishman 1993), which may open doors, but does not inherently guarantee equity. Navigating away from the social positions ascribed by the prevailing structure proves more complicated. As previously noted, language transcends mere communicative utility. If it were solely functional in that regard, learning languages would imply a pathway to equity with other linguistic groups. However, the complexity arises from the fact that language embodies social meaning as a category of social grouping (Norton 2010). Languages and their variants categorize individuals socially, endowing them with specific values and characteristics that are socially organized and interwoven (Bourdieu 1978). Recognizing these characteristics can activate the original assignment. For instance, employing languages in a manner that signals foreignness or inadequacy can trigger mechanisms of exclusion (Ryan & Carranza 1977; Lippi-Green 1994; Swales 1997; Rosa & Flores 2017). Ultimately, language is not the locus of the conflict; rather, it serves as the symbol of the conflict between social groups that establish competitive relations in a context of domination.

Cultural beliefs, reproduced through language (Winter & Pauwels 2006), fortify structures of dominance by selectively discarding elements already excluded, ascribing a lack of necessity or value to what remains marginalized. For instance, the assumption that bilingual communities do not require the minority language for communication because they are proficient in the dominant language (central to ideological, asymmetrical or unilateral bilingualism) suppresses fundamental needs for dignified treatment within societies. Similarly, portraying the dominant language as a conduit for meddling and accessing cosmopolitanism (a myth central to monolingual ideology, see Phillipson, Rannut & Skutnabb-Kangas 1995) dismisses the capabilities of users who find themselves in a minoritized situation

in any given context. These and other myths, emanating from the metanarrative or protomyth of monolingualism (see Monzó-Nebot 2023), synchronize beliefs and coordinate actions that facilitate the disregard of elements incongruent with dominant ideologies, including the value of minority languages, the perspectives of their users, and consequently the need to recognize their rights. In this manner, exclusion effectively ratifies the norm.

Following this rationale, traditional political models of statehood have presupposed a shared language within their population. This purportedly common language is that of the dominant group, which holds sway in decision-making arenas, imposes cultural paradigms, and occupies privileged roles in the social division of labor. From the vantage point of this group, the assumption that the use of a single language everywhere, without the need for any other, is natural and unproblematic stems from the perspectives that illuminate or obscure one's own experiences. Yet, language choice permeates diverse facets of everyday life, central to everyday linguistic disputes (Patten & Kymlicka 2003, 16–25). Whether manifested in internal uses within public administration, communication between public agencies or the justice system and the public, education practices, the private uses allowed or enforced, or the linguistic treatment of the migrant populations by both the administration and by residents, these issues necessitate public decisions on languages. Such decisions ultimately translate into language rights and linguistic exclusions.

These decisions can establish varied frameworks (Patten & Kymlicka 2003, 26–31). Of particular interest in this paper, from the perspective of social opportunities (and inequalities), is the challenge posed by States operating with a limited number of languages. This limitation poses difficulties for language access to civil, political, and social rights for segments of society. Language rights serve as instruments that can either ameliorate or perpetuate these access challenges. When language communities become visible within the purview of rights enactment, addressing not only the communicative dimension of languages but also the social dynamics of domination becomes imperative. On the one hand, *instrumental* rights address the former (Rubio-Marín 2003). On the other hand, *non-instrumental* rights (Rubio-Marín 2003) aim to shield minoritized communities from the

pressures exerted by the dominant ones. They concentrate on fostering their own decision-making processes, cultural practices, and rectifying hierarchies in the division of labor.

The conceptualization of language rights and their potential to rectify inequalities does not imply a direct eradication of discrimination based on language (or, rather, language community). On the contrary, while discrimination against non-dominant groups defined by factors such as gender, ethnic origin, or functional diversity (among many others) is increasingly visible and rejected, societies persist in upholding discrimination on the basis of language rather naturally (Skutnabb-Kangas & Phillipson 1995). This naturalness manifests in mechanisms that undermine the enforceability of rights, allowing hierarchies to persist. From vague formulations of obligations (Phillipson & Skutnabb-Kangas 1995) to the absence of sanctioning mechanisms in case of non-compliance (Turi 1995), rights and officialdom can remain merely theoretical or shallow (Leung 2019). Similarly, viewing language rights as divisible, wherein instrumental and non-instrumental rights are conceptualized separately, elevates one language community over others, positioning it as the exclusive repository of a comprehensive set of rights. Under this view, non-instrumental rights are established for so-called national minorities—as exemplified by the European Charter for Regional or Minority Languages (Council of Europe 1992)—, while instrumental rights are designated for migrant communities—as illustrated by Directive 2010/64/EU (European Parliament & Council of the European Union 2010). Analogous to human rights (Annan 2005), for language rights to be effective, they must be indivisible. Only in this manner can they serve as an efficient mechanism against the hierarchies that impose oppressive domination over the majority of the world's languages. Fragmented recognition perpetuates a hierarchy in which only the dominant language community can fully flourish. Artificially compartmentalizing language functions entails denying the power of languages to classify individuals or the significance of these classifications in shaping the opportunities and resulting inequalities (Therborn 2013, 49). Through such silencing, dominant communities ensure the preservation of existing structures of domination.

3. Ideologies and identities: Domination and inequality

Ideologies are sets of beliefs, values, and ideas that exert profound influence on social life. Ariño (1997) points out that the concept of ideology plays a central role in the understanding of four challenges of modernity: creating reliable knowledge, wherein ideology is responsible for propagating false and illusory representations of reality (see Mannheim 1929); legitimizing forms of social domination, where ideology validates and conceals contradictions to prevailing domination (see Marx 1867; Bourdieu 1974); mobilizing the population, wherein ideology unites individuals in collective action by constructing shared identities with common interests (see Gramsci 1977); and describing, understanding, analyzing, and explaining the plural universes of meanings in modern societies, where ideology comprises a collection of representations, presuppositions, beliefs, and values that mediate the production of the meaning of being in the world (see Geertz 1993).

As the lowest common denominator, ideologies are roughly coherent sets of ideas that mold individuals' perceptions and interpretations of the world, influencing their actions. Ideologies serve as starting points for comprehending societal experiences. They provide a map for addressing challenges in understanding and navigating social reality (Geertz 1993, 220). Concurrently, ideologies generate group affiliation by furnishing a common interpretative framework—a form of collective consciousness “defining (or obscuring) social categories, stabilizing (or upsetting) social expectations, maintaining (or undermining) social norms, strengthening (or weakening) social consensus, relieving (or exacerbating) social tensions” (Geertz 1993, 203).

From this perspective, ideologies naturalize social experiences, rendering them fluid and coordinated, often escaping notice. This is the case, at least, until they come into conflict with others. When diverse maps of the same social space are superimposed, conflicts arise, consisting in

luttres pour le monopole du pouvoir de faire voir et de faire croire, de faire connaître et de faire reconnaître, d'imposer la définition légitime des divisions du monde social et, par là, de faire et de défaire les groupes : elles ont en effet pour enjeu le

pouvoir d'imposer une vision du monde social à travers des principes de division qui, lorsqu'ils s'imposent à l'ensemble d'un groupe, font le sens et le consensus sur le sens, et en particulier sur l'identité et l'unité du groupe, qui fait la réalité de l'unité et de l'identité du groupe. (Bourdieu 1980, 65)

Group identities emerge from elements of social classification and are outcomes of interaction dynamics (Barth 1969). They represent historically contingent products, shaped by specific power relations between social groups bearing distinct identities, each distinguished by its vision (and division) of reality.

These visions and divisions are primarily crafted, transformed, and perpetuated through socially embedded discourses and communicative interactions (Van Dijk 1998, vii). Conflicts arise when these perspectives offer incompatible interpretations, leading to potential faltering or the need for strategies to reconcile contradictions within one's myths. Strategies may involve selecting certain aspects while excluding others; assigning negative values to elements that challenge one's beliefs; directly opposing the qualities of other identities; and naturalizing the characteristics of one's own identity (Larrain 1994). In short, the efficacy of a social identity in shaping reality hinges on the power to select, evaluate, oppose, and naturalize specific characteristics over others, on the ability to impose a particular way of perceiving reality as a social truth, irrespective of its accuracy. The capacity to generate these social truths is not uniformly distributed.

Identity is formed by social processes. Once crystallized, it is maintained, modified, or even reshaped by social relations. The social processes involved in both the formation and the maintenance of identity are determined by the social structure. (Berger & Luckmann 1966, 194)

These social processes have grown increasingly complex with the globalization of relationships, the surge in intercultural contacts—with and without translation—and the advent of technologies facilitating engagement with alternative ideologies, creating distant communities and reshaping intergroup relations (White, Abu-Rayya & Weitzel 2014). Recently, the advent of

artificial intelligence applications introduces a new dimension to the potential for some social groups to reproduce their ideologies, including language ideologies (e.g., Tasa Fuster, Monzó-Nebot & Castelló-Cogollos 2023).

In the production and reproduction of ideologies and linguistic identities, verbalizations and mental constructs carry significant weight, manifesting also in embodied practices and dispositions (Gal 1998, 319), alongside material events, institutional arrangements and objectified representations that shape the experience of members in the community (linguistic landscape, school model, media, courts, etc.). Consequently, ideologies confer or withdraw value from specific linguistic practices, establish social and economic incentives or penalties based on language, and bolster social domination by obscuring the fundamental arbitrariness in assigning value (Bourdieu 1978; Silverstein 1998; Woolard 2020).

This concealment of the arbitrary nature of how ideologies allocate values to specific linguistic capitals functions as a mechanism to secure the collaboration of dominated groups in structures of domination (e.g., Bourdieu 1998, chap. 3). It validates and justifies the existence of unequal social treatment by persuading the population that the experienced social inequalities are legitimate distinctions. In this manner, ideologies legitimize inequalities—vital, existential, and resource inequalities (Therborn 2013)—of which linguistic inequalities are a part, giving rise to severe scarcities. For instance, vital inequality may derive from the lack of access to minimum services and basic rights by withholding the right to translation and interpretation (e.g., Wallace & Hernández 2017); existential inequality emerges in the overtly discriminatory treatment of certain language communities that generates a hierarchy of human existences (Roche 2022); and resource inequality offers varying opportunities for action to different communities based on the language they use (Heller & McElhinny 2017).

4. Intersections (and conflicts) between ideologies and language rights

The thematic core of this special issue of *Just* revolves around the notion that ideologies construct inequalities legitimizing an inequitable distribution of

rights among diverse language communities. The featured articles address the processes of constructing inequalities through the formation of identities and the ensuing impacts on the rights of both individuals and collectives. Across the different contributions, these ideologies are brought to light, shedding insight on their role in normalizing inequalities and their ability to select, appraise, and oppose foreign identities along several axes intersecting with language—social class (Adams & González-Ruiz), religion (Mansi), and socially punished deviance (Vitalaru). Language, in turn, is examined as a social classifier (Teutsch; Lledó-Guillem).

Within this context, two articles delve into issues related to the construction of identities rooted in linguistic elements. Teutsch explores the instrumentalization of translation as a means of presenting judicial systems as coherent and homogeneous. Lledó-Guillem navigates the construction, reconstruction, and deconstruction of a society through the representation of its linguistic fabric and of the language it speaks. The remaining three articles scrutinize how social vision and division curtail the access of specific language communities to fundamental resources for social and political life. Adams and González-Ruiz explore the intricacies of procedures designed to prevent exclusion in a language that, due to its inoperability, excludes the most vulnerable populations. Vitalaru investigates the access to information and the communicative rights recognized to inmates with languages differing from the official one. Lastly, Mansi delves into the promotion of violent action against groups labeled as enemies by an ideology that not only legitimizes exclusion but also advocates for extermination.

Heather Adams and Víctor González-Ruiz's article ("Is ambiguity a source of inequity? Nominalization in sustaining and effacing power asymmetries") scrutinizes the prevalence of nominalization in legal discourse, emphasizing the deleterious implications of omitting the agent. Drawing on a qualitative case study involving informative texts from the Social Service department of the Spanish State, the authors contend that nominalization, when interacting with other linguistic elements, hinders accessibility for a non-specialist audience, impeding their ability to secure crucial economic assistance. The article explores how linguistic practices can position certain populations in a situation of inequality when accessing resources, thereby perpetuating their exclusion.

Alexander Teutsch's contribution ("What was the language of the judgment again?: Traces of bilingualism in monolingual judgments from South Tyrol, Italy") sheds light on the tension between social multilingualism and monolingual ideology within the judicial system. The article studies the linguistic practices of multilingual courts when the necessary resources are available only in a language other than the official one. It analyzes criminal judgments written in German in magistrates' courts of the bilingual (German/Italian) province of South Tyrol, Italy. The results show that traces of Italian are becoming increasingly evident in judgments written in German. The article proposes an alternative approach, which combines direct quotation from Italian and translation into German as mechanisms to guarantee legal certainty by ensuring proper understanding for all parties concerned. The proposal aims at overcoming monolingualism in order to move towards equal access to non-linguistic resources by means of an instrumental language policy.

Third, Bianca Vitalaru's article ("The right to receive information and the right to communicate: Keys to translation and interpreting policy in Romanian prisons") explores Romanian prison legislation to evaluate translation and interpretation policies that seek to secure the rights of non-Romanian speaking prisoners. The study introduces a novel and relevant distinction between the right to information and the right to communication, in order to determine whether the legislation upholds both rights for foreign prisoners. From a comparison with international instruments, these are taken as a reference to determine how many of the discursive situations involving the need for translation and interpretation to guarantee protected rights have been transferred to the Romanian legislation. The paper concludes that imbalances persist in the Romanian prison system concerning the measures adopted for the enjoyment of communication and information rights for non-Romanian speaking inmates, and opens a discussion on the extent to which the legislation silences inmates who do not speak the dominant language.

Vicente Lledó-Guillem's contribution ("The glottopolitics of Països Catalans in the Valencian elections of 28 May 2023") centers on the ideological construction of relations between the Catalan, Valencian, and Spanish languages in the

speeches of the Valencian right. The contribution was prompted by the electoral victory of conservative parties in the Valencian Country, which gave access to the autonomic government to far-right parties for the first time since the Spanish democratic transition. Drawing on the language ideologies of authenticity and anonymity, Lledó-Guillem shows how the government agreements between PP and VOX to preside over the Generalitat Valenciana imply in fact the erasure of Valencian as a referent of Valencian identity. The article reveals an ideological construction that, in the manner of a palimpsest, seeks to replace Catalan with Castilian as a reference in the Valencian identity construction.

Mennatallah Mansi's article ("Paratexts as gatekeepers in online global jihadist translation — The narrative of a blog-based Arabic translation of *Dabiq*") investigates the controlling role of translation in disseminating global jihadist ideology in Arabic-speaking communities. The author situates translation as a key element of jihad and studies the paratextual elements that give visibility to the translator's agency and ideology. Taking as a case study a blog that published Arabic translations of key texts of the jihadist ideology, this contribution focuses on the agency of the translator in charge and studies the narrativity of the paratextual mechanisms through which he gains visibility. The author demonstrates how the translator reconstructed the frames of the texts introducing socio-cultural adjustments to mitigate the effects of the poor results of the jihadist campaign and tailoring the narrativities to the language communities targeted, with the aim of mobilizing them and increasing the narratives' impact on the future actions of the targeted communities.

Collectively, the articles in this special issue make a compelling case for further researching the mechanisms involved in the construction of difference and how these can affect the vital and existential opportunities of language communities. Implementing the rights of only part of the communities cannot be justified, but its causal dynamics can be understood. Recognizing these dynamics and exposing the inherent unnaturalness of ideologies and hierarchies is a crucial step toward reinstating dignity to minoritized communities, affording them fair treatment in resource distribution, and ensuring the survival of oppressed language communities.

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JOURNAL OF LANGUAGE
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REVISTA DE DRETS
LINGÜÍSTICS I MINORIES

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To cite this article:

Adams, Heather & Víctor González-Ruiz. 2023. "Is ambiguity a source of inequity? Nominalization in sustaining and effacing power asymmetries." In "Ideologies and Language Rights Meet (and Clash)," edited by Rafael Castelló-Cogollos & Esther Monzó-Nebot. Special issue, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 55–87.

<https://doi.org/10.7203/Just.2.24924>.

Article received: 22/07/2022 Final version accepted: 23/03/2023



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Is ambiguity a source of inequity? Nominalization in sustaining and effacing power asymmetries

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Abstract

This article explores the tendency to nominalization in legal discourse from different perspectives, underscoring arguments from the field of critical discourse analysis (in particular, those related to the detrimental consequences that omitting the agent may entail), and offers a qualitative case study regarding the use of nouns in the informative texts given by the Spanish Social Security department on its web about a minimum wage benefit scheme. For this case study, we have used the framework proposed by Willerton (2015) involving his BUROC model, aimed at identifying the circumstances in which plain language should be a priority. As an answer to the question posed in the title of this article, the findings suggest that excessive nominalization harms the lay reader's ability to comprehend and, as a result, places him or her in a disadvantageous position in legal settings; however, the results also indicate that it is the writer's overall lack of empathy towards the reader which ultimately has the most negative impact on legal communication.

Keywords: nominalization, legal language, plain language, grammatical metaphor, critical discourse analysis, power asymmetry

¹ The authors are members of TriAL research group (Translation & Interpretation, and Language Learning), which belongs to the University Institute for Technological Development and Innovation in Communication (IDeTIC) at the Universidad de Las Palmas de Gran Canaria, Spain.

1. Introduction: Action nominalizations

A nominalization is “[a] noun or noun phrase derived from, or corresponding to, another part of speech or a clause,” and “the process by which such a phrase is derived” (Chalker & Weiner 2014). In a more straightforward definition, Fairclough (1989, 124) describes nominalization as “a process converted into noun,” and hints at one of its potential shortcomings as a linguistic strategy by saying that “[nominalization] is reduced in the sense that some of the meaning one gets in a sentence is missing—tense, so there is no indication of the timing of the process; modality . . . ; and often an agent and/or a patient.” By way of an example, we can take the Spanish noun *detención* (‘arrest’), derived from the verb *detener* (‘to arrest’). In this specific case, we are dealing with a deverbal nominalization, because the root form is a verb as well as an action-conveying nominalization, as the noun *detención* reflects an action. In order to properly contextualize this type of nominalization (in Spanish), that of nouns that convey action or, as described by Fraser (1970), “action nominalizations,” it is worth mentioning that nominalizations can be sub-divided into four different groups apart from this one, according to the *Nueva gramática de la lengua española* (RAE & ASALE 2009). The other four groups are: those of effect or result (*la resolución del juez* [‘the judge’s decision’]), those of agency (also derived from verbs: *el presidente de la sala* [‘the court’s president’]), those of state (derived from verbs, these allude to sensations, impressions, or states of awareness: *el deseo de que el juicio no se demore* [‘the desire for the trial not to be delayed’]) and those of quality (derived from adjectives and denoting properties of people or things: *la rudeza en la actuación del abogado* [‘the rudeness in the lawyer’s behaviour’]). Given the potential for ambiguity between action nominalizations and those that transmit effect or result, some experts put the two categories together under the same name (for example, Palazón 2008). In our case, while we will concentrate on action nominalizations, we are aware that the exact point at which one category ends and another starts is not always clear-cut.

The initial definitions given remind us that nominalization may occur with either a single word—as in the case of *detención* (‘arrest’) and *detener* (‘to arrest’)—or with a group of words. In this latter case, we can even find instances in which a

whole sentence is condensed into a noun, as we can see in the following example: *la policía detuvo al presunto delincuente en su domicilio el 20 de junio de 2022* ('the police arrested the alleged criminal at his home on 20th June 2022'), which is transformed into one noun accompanied by an article: *la detención* ('the arrest'). In most cases, these nouns encompass the properties of their syntactic base, that is, "nouns do not possess subjects, direct or indirect complements, but they do take agents, patients or recipients, among other semantic functions" (authors' translation, RAE & ASALE 2009, 863). This is the case particularly in action nominalizations. We could, for example, use the concise expression *la detención* in a context in which the circumstances surrounding the arrest remained implicit, either because they were considered common knowledge, or because they had already been described. Alternatively, this noun group could be enriched with complements as natural companions of the verb *detener* in the above-mentioned sentence, leading us to the following wording: *la detención del presunto delincuente por la policía en su domicilio el 20 de junio de 2022* ('the arrest of the alleged criminal by the police at his home on 20th June 2022'), in which *por la policía* ('by the police') denotes the agent carrying out the action, *del presunto delincuente* ('of the alleged criminal') corresponds to the role of the patient, and *en su domicilio* ('at his home') and *el 20 de junio de 2022* ('on 20th June 2022') are two complements (adjuncts) that indicate the place and the time, respectively, at which the action occurs.

Even though it is not common for essential complements such as the agent to remain implicit (referring here to the arguments, the essential noun complements derived from the lexical bases), speakers may not explicitly mention the agent when they use an action nominalization, particularly in the following cases (Van Dijk 2008, 827):

- when the noun constitutes the most common or concise way of describing an action (for example, *elections*, *revolution*, *inflation*, etc.);
- when the agent is unknown (*car theft*, *pollution*, etc.), or knowledge about agency is irrelevant in the specific context (as in *the weather forecast*);
- when the agent has already been identified in the (con)text, or as part of the implications or implicatures of the text (as in *demonstrators . . . the demonstration*);

- when the agent can be inferred from general knowledge about the action (as in *elections: voters*);
- when the author momentarily does not want to focus on agents, but on actions or victims (as in *the assassination of the president*);
- when there is lack of space, as in headlines, titles, slogans, etc. (as reform in *Ministers back radical voting reform—The Guardian*, March 24 2008);
- or, finally, when the author wants to hide or downgrade the responsible negative agency of ingroup agents (as in *discrimination against immigrants is increasing*).

In most cases, the omission of the agent should not represent an added difficulty to the proper understanding of what is being expressed. In some cases, however, the non-specification of exactly who carried out the action could lead to some vagueness or abstraction in what is being said, and this quality (lack of concrete clarity) could make it more difficult for the receiver to understand. We will return to this at a later stage, and here offer, to illustrate the use of nominalization both with and without the use of an agent, a fragment of Section 55 of the Spanish Civil Code (*Código Civil*), part of Title IV of the First Book; in its third paragraph we can observe a high concentration of nouns (authors' translation and emphasis on nouns):

Artículo 55

[...]

El poder se extinguirá por la revocación del poderdante, por la renuncia del apoderado o por la muerte de cualquiera de ellos. En caso de revocación por el poderdante bastará su manifestación en forma auténtica antes de la celebración del matrimonio. La revocación se notificará de inmediato al Juez, Alcalde o funcionario autorizante.

Section 55

...

The power of attorney will be terminated by revocation by the donor, by renouncement by the attorney or by the death of either. In case of revocation by the donor, an authentic manifestation by him or her to this effect before the celebration of the wedding will suffice. A revocation will be notified immediately to the Judge, Mayor or authorizing officer.

In the first five cases, the agent is explicitly stated (*by the donor* [*del poderdante*], *by the attorney* [*del apoderado*], *of either* [*de cualquiera de ellos*], *by the donor* [*por el poderdante*], and *by him or her* [*su (del poderdante)*]). In the last two, the agent (i.e., who celebrates the marriage and revokes the power of attorney) is implied by the context (both by the more immediate co-text and by the knowledge of how the world works that speakers are assumed to have).

2. Nominalization as a drafting strategy in legal discourse

Nominalization is a drafting strategy that is generally well-consolidated among authors of scientific and academic texts (understood as those that reflect authors' expert knowledge in academia). It is almost axiomatic to say that scientific discourse has a markedly nominal character, given the number of authors who have shown it to be the case, including the notable examples of Halliday (2004) and Hyland (2009). As Liardét (2016, 16) summarizes: "[a] key feature of academic discourse is the move towards static representations of language that reorganize dynamic spoken interactions into lexically dense, noun-dominated language." The principal objective of this strategy is to produce a more concisely-expressed discourse, and action nominalizations "seem to reflect the parallel process whereby results are inferred from experiments and objects from their construction process" (Raluca 2013, 251). This linguistic strategy is so closely identified with scientific writing that Billig (2008), in a pertinent affirmation for our study, says that, in order to be promoted in academia, social scientists (linguists among them) tend to over-charge the technical character of their texts, among other means by turning verbs into nouns; even though he claims that academic language in the social sciences, revolving as they do around people and their actions, should not be equated to physical sciences regarding the creation of technical terms (as absolute things).

This clear tendency in scientific or academic language can also be seen in the technical jargon that legal practitioners use in their communicative acts. In Spanish, a number of field studies carried out by the Committee for the Modernization of Legal Language (Comisión de Modernización del Lenguaje

Jurídico, hereinafter CMLJ), set up by the Spanish Ministry for Justice in 2009, have reached this same conclusion. Firstly, referring to written language, mention is made of the tendency to nominalization in legal jargon in order to explain the preference for analytical forms requiring action nominalizations (Montolío 2011, 156). Secondly, in studying the language of rules and regulations, it is observed that legal language makes frequent use of action nominalizations accompanied by verb-like complements (Gutiérrez Ordóñez 2011, 29). Thirdly, in the discourse of procedural templates, an excess of nominalizations has also been identified (Borrego Nieto 2011, 10). Finally, this appears to spill over into spoken language: a field study on this topic found one of the main problems of oral texts in legal areas to be the influence of written discourse, including excessive recourse to nominalizations, on oral expression (Briz Gómez 2011, 41).

The results obtained by these experts seem to suggest that references to the nominal character of a large part of legal discourse sway between, on the one hand, recognition of its obvious presence and associated lexical density and, on the other, criticism of its overuse. The following quote leans towards the former point of view (Samaniego Fernández 2005, 295) (authors' translation):

[Nominalization] is a feature common to almost all specialised languages and stands at a halfway point between morphology and syntax By means of this process, a large amount of lexical information tends to be included in the noun group, giving rise to more compact texts. Nominalizations, therefore, are important because they make it possible to summarise very complex phenomena in just a few words They also enable the agent to be omitted and the prose to take on an impersonal tone: when nouns are used, the people who accompany the verbs (the actors) disappear, and the ensuing text is more elusive.

However, the final proposition expressed points towards the latter view: a criticism of the overuse of nouns, and how this practice can make meaning less clear. Taking an ideological stance, this loss in clarity of meaning (in particular, not knowing who does what) should be viewed in the light of the prevailing power imbalance in the field of law. As Monzó-Nebot (2008, 229) points out in connection with Bourdieu's analysis (1986), nominalization is one of the neutralizing resources

used by legal professionals to present “the agents’ decisions as fundamentally rational,” with the ultimate goal of legitimating and perpetuating “the dominance of legal actors so that lay people—like the Cyclops who fell victim of Ulysses—may be tricked, blinded and deprived of any powers of decision in favour of specialists.” The members of the Spanish CMLJ also question the benefits of this tendency towards nominalization, albeit in a rather less politically-charged way; their position on this matter could be summed up in their observation on procedural templates, in which the use of nouns to convey actions where verbs could easily be used is described as excessive in some texts, leading to a more static, compressed, abstract text that is more difficult to read (Borrego Nieto 2011, 10). The Committee’s authors also give some examples of where verb forms could be used instead of the more frequent nominalizations, so that in the expression *por lo que no ha lugar a la estimación de la petición de acumulación* (‘the consideration of the cumulation request is not allowed’), some of the nouns could have been converted into verbs: *por lo que se desestima la petición de que se acumulen* (‘the request to cumulate . . . is rejected’).

Some of the authors of the CMLJ’s field studies mentioned above have taken an identical stance elsewhere (on their own, such as Carretero González 2019, and Montolío 2019, or with other scholars, such as Carretero González & Fuentes Gómez 2019, and Montolío & Tascón 2020). Interestingly, these linguists’ findings have also permeated more practical publications on better writing addressed to legal professionals, which have been backed by public and private legal entities in Spain. As a case in point, the view that nominalizations may be useful for their synthetizing quality, but overusing them may hinder comprehension, is upheld by Muñoz Machado (2017) in a manual supported by the Spanish Judiciary, and by Jiménez Yáñez (2016) as part of a published series on how to manage legal firms. The former complains that, as regards nominalization, a language virtue has been transformed into a vice by reason of its overuse (Muñoz Machado 2017, 67), and lists the main drawbacks of the nominalizing habit: the cacophonous effect of noun chains, the resulting ambiguity in meaning, the resort to rare nouns, the greater use of weak verbs (as a mere supplement to nouns in verb groups), and the consequent overall impersonal and baroque style. He concludes by saying that the most negative effect of nominalization is the fact that it makes a text

more difficult to understand, first by concealing the agent, and second by taking away information which, as Spanish is an inflected language, would otherwise be clearly conveyed through verb forms (Muñoz Machado 2017, 68).

The recognition of this major flaw is also among the findings of Conde Antequera (2009) and Da Cunha (2020) in their respective studies of texts written by public officials in Spain. This should be of particular concern to us as the activity of a public administration revolves mostly around the application of the law and the assertion of citizens' rights. We will further discuss these communicative flaws by incorporating some arguments from plain language advocates and critical discourse analysts next.

3. Action nominalizations as a source of vagueness and inequity in legal discourse

Section 99 of the aforementioned Spanish Civil Code presents numerous examples of the lack of fluidity and excessive abstraction, which the previously quoted researchers have linked to nominalization. While a seasoned reader will be able to understand what is stated in the following extract from section 99, the repeated use of nouns to express actions may make the circumstances in which the actions are taken overly implicit (particularly, whoever it is that actually substitutes, constitutes, usufructs and hands over):

Artículo 99

En cualquier momento podrá convenirse la sustitución de la pensión fijada judicialmente o por convenio regulador formalizado conforme al artículo 97 por la constitución de una renta vitalicia, el usufructo de determinados bienes o la entrega de un capital en bienes o en dinero.

Section 99

"At any time, the substitution of the support determined by the Judge or by the agreement drawn up pursuant to section 97 by the constitution of a life-long income, the usufruct of specific assets or the handing over of capital in the form of assets or money may be agreed on". (Authors' translation and emphasis on nouns)

The critical attitude towards the overuse of action nominalizations to denominate processes can be linked to the perspective of defendants of plain language, who advocate the use of comprehensible language in all texts in the legal, administrative, and economic fields that, in whatever shape or form, are aimed at citizens. This movement enjoys considerable influence in Anglo-Saxon countries such as the UK and Australia, as well as in other regions like, for example, Scandinavia. Its proponents include a wide range of academics and professional practitioners, and it has inspired a great number of guidelines or stylesheets with a view to achieving texts that are clearer for the reader.² All the classic English handbooks on plain language (such as Garner 2001; Wydick 2005; Butt & Castle 2006; or Cutts 2009), refer to the “endemic” nominalization tendency in English legal texts (Butt & Castle 2006, 153). Their criticism of this tendency normally focuses on the increased number of words and greater complexity that using nouns involves (*Please make a statement of why you are interposing an objection to the question*, as opposed to the simpler and more direct *Please state why you object to the question*; or *someone was in violation of the law*, and the alternative working *someone has violated the law*). The arguments underlining the standpoint of plain English authors can be summarized in the three reasons given by Garner (2001, 39) for recommending banishing nouns ending in *-ion*: “[1] You’ll generally eliminate prepositions in the process, especially *of* . . . [2] You’ll often avoid inert *be*-verbs by replacing them with action verbs . . . [3] You’ll humanize the text by saying who does what.” This author concludes as follows: “[t]he underlying rationale in all this is concreteness. By uncovering buried verbs, you make your writing much less abstract—it becomes much easier for readers to visualize what you’re talking about.”

² The International Federation of Plain Language (IPLF) is formed by some of the most influential organizations advocating plain language in the world. IPLF’s website is home to key data about the progress of plain language in the various sectors and countries (<https://www.iplfederation.org/>). Among the more outstanding developments featured in IPLF’s website, an agreed-upon definition of plain language and the details about the expected publication in 2023 of an ISO (International Organization for Standardization) standard on plain language are particularly noteworthy.

In this context, it is worth looking at the BUROC model proposed by Willerton (2015). This model (whose name is formed by the initials Bureaucratic, Unfamiliar, Rights-Oriented and Critical, in reference to situations that are especially challenging for vulnerable readers who need to acquire information and then act on it) offers a framework to identify the circumstances in which writers should resort to plain language. In Willerton's view (2015, 74), "[p]lain language can help people facing BUROC situations feel more at ease, understand more about their situations, and make decisions more confidently." As for the bureaucratic element, he points out that "[t]hose with expertise and authority . . ., such as physicians, lawyers, legal experts, or managers, enjoy advantages unavailable to those who need their services," and adds that "[t]he bureaucracy's public façade often keeps outsiders distant and limits their access to information" (Willerton 2015, 74). In our opinion, nominalization is one of the strategies this "public façade" often uses (though not always consciously) to keep readers at a distance and limit their access to information. As it helps recognize the contexts of power imbalance in which clear communication should be a requirement, we will use the BUROC model as the framework for the case study in this paper to look into the effect that the excess of nouns may have on public information addressed to vulnerable citizens.

As one of the bases for the BUROC model, Willerton (2015) cites Buber's (1970) dialogic ethics and his distinction between two types of relationships one can have with others: I-It relationships, where "one person speaks down to the other in technical dialogue" and "there is no true relationship between them"; and I-You relationships, where "each stands in relation to the other" and "the relationship is reciprocal" (Willerton 2015, 43). Willerton (2015, 181) summarizes his viewpoint by saying that "[b]y treating their audiences as Yous and not Its . . ., plain-language professionals act ethically. Simply producing information that is ostensibly clear and well organized does constitute a dialogue with the audience." This bears comparison to Bourdieu's discourse effect of neutralization in legal texts as considered by Monzó-Nebot (2008), and to the role nominalization plays in the language of the law: by using action nominalizations, writers make meaning more distant and indisputable, and render any dialogue with lay readers impossible (or at least unlikely). Taking this allegation further, writers who hamper the possibility

of dialogue would be engaging in what Benedito (2010) calls a “domination relationship,” in which the subject who initiates the communication treats the receiver as an object, as someone to whom they feed a piece of information but who is not allowed to react to it (in contrast with other types of relationships, where the receiver would be treated, at least partially, as a subject entitled to respond to what is said to them).

In line with this critical perspective, but with a stronger ideological component, critical discourse researchers have also examined the effect that overuse of nominalization in certain fields entails. Following systemic-functional linguistic ideas, they consider nominalization to be the most powerful way of creating a “grammatical metaphor,” leading to a process that is represented as if it were an entity, by converting clauses (and verbs) into nouns. Halliday (1994) calls this “grammatical metaphor” an “incongruent” manner to express an action or a process, which (by contrast) would be more congruently, more naturally realized through a verb. Fairclough (2003, 220) gives us an example from the perspective of critical discourse analysis: “*employees produce steel* is a non-metaphorical representation of a process, whereas *steel production* is a metaphorical, nominalized representation.” He goes on to add:

As this example shows, nominalization often entails excluding social agents in the representation of events (in this case, those who produce). It is a resource for generalizing and abstracting which is indispensable in, for instance, science, but can also obfuscate agency and responsibility. (Fairclough 2003, 220)

In the same vein, critical discourse analysis experts suggest that, in some situations, the drafter of a text may nominalize in order to manipulate the receiver of the text. This manipulation may take the form of concealing the agent who performs the action (particularly when said agent has some kind of negatively-perceived responsibility in the action conveyed by the noun). Alternatively, the process or action that is nominalized may be depersonalized, and thereby reified or commodified. Thirdly, this use of nominalization as an object that makes things (i.e., an object that is modified by verbs, as either a subject or an object) may lead the reader to believe that the nominalized process or action is inevitable,

as if this process had not actually been caused by specific people in concrete situations. Van Dijk (2008, 823) takes a categorical stand on the concealment of the agent performing the action from the standpoint of critical discourse analysis: “public discourse that systematically hides or mitigates the negative actions of powerful social actors is professionally inappropriate, socially misleading and ethically wrong, and hence a form of discursive power abuse.” He concludes that “[n]ominalizations may be abused as a form of manipulation, as mind control.”

Likewise, Bednárová-Gibová’s research (2016) on nominalization is informed by the idea that “all texts are ideological,” as she quotes Jeffries (2010) in reference to the latter’s approach to critical stylistics. Also using critical discourse analysis as theoretical background and a corpus of parallel English–Slovak EU texts as her object of study, Bednárová-Gibová examines nominalization “as a means of the ‘institutionalization’ of translation by which EU institutions assert their textual presence by imposing certain linguistic means on translators” (2016, 31). In the process, she maintains that nominalization “serves as a mystificatory textual tool of ‘Euro-fog’ to reproduce the workings of ideology” (Bednárová-Gibová 2016, 29), and agrees with the claim that “a high incidence of nominal phrases in legal discourse results in the ambiguity of the legal message and works to the detriment of effective and intelligible communication” (Bednárová-Gibová 2016, 30). As a result of her study, she confirms her hypothesis positioning EU institutions as “ideological text producers,” which favour nominalization “as a particular naming mechanism” in all language versions of EU texts (Bednárová-Gibová 2016, 36–37).

This does not mean that all cases of nominalization in which the agent is omitted necessarily represent an attempt to manipulate the receiver. We have explained above that there may be a wide range of situations in which the drafter decides not to state explicitly who is responsible for an action in which the receiver is given all the information he needs. Nevertheless, in circumstances in which imbalances of power between those parties in interaction may occur (which is often the case where legal texts are concerned), more powerful social actors,³

³ Social actors, in the sense given by Fairclough (2013, 222), are “participants in social processes.”

such as legal professional practitioners, may benefit from the vagueness that a surfeit of action nominalizations with no mention of the agent or other relevant complements so often entails.

4. Case study: The effect of nominalization on online information about the Spanish minimum vital income scheme

To add further elements for discussion about the extent to which a text in a legal context is negatively affected by the tendency to nominalize (and whether, consequently, the potential ambiguity of meaning may reinforce power asymmetries between participants in a legal act), we will present some qualitative findings from a case study regarding written legally-relevant communication addressed to vulnerable citizens. Specifically, we have analysed the informative texts that the website of the Spanish Social Security department offers to those eligible for the so-called minimum vital income (*ingreso mínimo vital* or *IMV*), a non-contributory social assistance programme introduced by the Spanish Government in May 2020,⁴ and designed to support low-income households with a view to fight poverty and social exclusion. These informative texts include details such as who is eligible, what documents are to be submitted, or how much money an eligible person is entitled to receive and for how long. All of these details are essential information for anyone attempting to succeed in the application procedure.

As of July 2022, this benefit had reached only 20% of all Spanish households living in severe poverty according to official figures (Olías, Sánchez & Ordaz 2022). One of the reasons for this very low take-up is to be found in the fact that its potential beneficiaries do not even know about the programme or, when they do,

⁴ The scheme was first introduced as legislation by the *Real decreto 20/2020, de 29 de mayo, por el que se establece el ingreso mínimo vital* ('Royal Decree 20/2020, of 29 May, establishing the minimum vital income'), and was later replaced by the *Ley 19/2021, de 20 de diciembre, por la que se establece el ingreso mínimo vital* ('Act 19/2021, of 20 December, establishing the minimum vital income').

they are incapable of successfully completing the difficult application process (Fundación FOESSA 2021, 47–48). A 2022 report by Human Rights Watch adds that “the Minimum Vital Income scheme . . . , while admirable in its objectives, proved extremely difficult to access due to stringent eligibility criteria and documentation requirements” (HRW 2022). Though the application procedure can also be initiated either by sending the application and the supporting documents by post, or by attending a Social Security information office to seek in-person assistance, it seems that these methods often entail delays and problems due to lack of staff. In practice, this means that most beneficiaries-to-be see themselves forced to find out about the programme and its requirements by reading the information which is available on the Government’s website, and then fill in the application form and upload their documents online with hardly any external help. This is why HRW (2022) recommends the Spanish Government “remove undue bureaucratic and other barriers” to the IMV by, among other measures, “[i]ncreasing assistance to people seeking to access the Minimum Vital Income, who are socioeconomically vulnerable or face difficulties accessing digitized application systems, including through in-person or telephone appointments to allow people to make their applications in an efficient manner.”

In such a context, we wish to explore whether, together with the “complex application process” or “the difficulties accessing digitized application systems” (HRW 2022), another reason for the low take-up of the Spanish IMV scheme is the elaborate language (we could even dare say *legalese*) in which the information about the IMV is conveyed on the website of the Spanish Social Security department. In particular, our focus is on nominalization and its damaging effect (if any) on clarity and understanding.

To this end, Willerton’s BUROC model (2015) provides us with a method for selecting our object of study (by assisting us in recognising a textual situation which may be detrimental to citizens), and a general framework to observe the relationship between plain language and ethical behaviour. As has been explained above, BUROC stands for Bureaucratic, Unfamiliar, Rights-Oriented and Critical, which are the criteria used by Willerton (2015) to identify the circumstances in which, if ethics is put at the forefront, writers should adopt the principles of plain language. By applying the BUROC test, we have found that the communicative

situation involving the informative texts about the IMV which the Spanish Social Security offers on its website meets the criteria proposed by Willerton:

- It is *bureaucratic* because it refers to a procedure designed by the Government, as part of an organized system of administration, where there is an evident hierarchy of authority: at the top, Government officials in a position of power, as decision-makers adjudicating on who is eligible or which applications must be rejected for being incomplete; at the opposite end, socially and economically vulnerable citizens, very likely living below the poverty line, and usually lacking the digital skills to successfully access and complete the complex digitized application system. The imbalance of power is underscored by the fact that citizens at the lower end of the hierarchical relationship will be badly hit if their application is rejected (that is, their right to proper food or housing will be endangered), whereas the official's socioeconomic situation will not sustain any damage at all in that event. It is also a complex situation, which “may require a lot of time to resolve, and . . . may occur over several episodes” (Willerton 2015, 74).
- It is *unfamiliar* for various reasons. Firstly, according to the reports mentioned above, most people eligible for this benefit are not acquainted with it and, as a result, do not even apply for it. Secondly, the online application procedure may be a world apart for those with poor digital skills or low levels of literacy (two traits frequently linked to citizens living below the poverty line⁵), even though in-person assistance is available (but not as much as needed, as pointed out by HRW's 2022 report). Thirdly, even when a person can access the application form, they will find a very poorly designed 19-page document in which directions for the applicant and the boxes to be completed are mixed up and may well lead to confusion as to which parts are to be filled in.⁶ In connection with this, it

⁵ This claim is supported by the results from the Spanish national statistics body's survey on living conditions in Spain in reference to the income of Spanish nationals in 2020 (INE 2021, 6).

⁶ The application form (PDF file) is available on <https://bit.ly/Seg-SocialIngresoMinimoVital>, last accessed on 12 January 2023.

is an uncommon situation in which people are required “to use jargon, policies, and even facilities that are not immediately at their command or recollection” (Willerton 2015, 74). All the above result in an unfamiliar situation (one in which it is *them* versus *the system*, and one which is based on uncertain terms, as they may see it), in which people do not know how to act and depend almost entirely on the help and advice of Government officials or third-party organisations.

- It is *rights-oriented* because the written information is part of the procedure that allows access to a minimum basic income, a benefit designed to guarantee the right to a decent standard of living for those most in need. As such, it helps vulnerable citizens to assert one of their fundamental rights as human beings and members of society.
- It is *critical* because, as has been pointed out above, access to proper food and housing may depend entirely on being able to successfully complete the application procedure (which involves not only filling in the form and handing in all required documents, but also correctly understanding the basics of the policy and knowing which details and documents are required). It is not a situation which has arisen without warning, but it is one that “can have significant consequences for people facing [it]” (Willerton 2015, 74).

As regards our corpus of study, we have selected two official webpages from the Spanish Social Security department: one of them offers general information about the IMV programme, by way of a summary of the legal provisions which are applicable (MISSM 2023a); the other takes the form of a FAQs page, with answers to practical, specific queries regarding entitlement to the IMV and the corresponding application process (MISSM 2023b). The former page seems to

⁷ This sign of empathy is shown only once, within the contents of the first drop-down item of the main menu in the page, where the writer employs *usted* (‘you’) and *nosotros* (‘we’) to refer to the citizen and the Government department respectively.

reproduce the content of the law almost literally, and its writer only occasionally addresses the reader in a direct manner.⁷ By contrast, the latter page comprises direct questions (in which the grammatical subject is the citizen himself or herself, in the form of *yo* ['I']) and some direct answers (addressed to *usted* ['you']). Both pages are composed of a menu of drop-down items, within each of which only linguistic information is provided to the user. Also in both cases, the two pages are mutually cross-referenced as part of the contents of the first drop-down item in each of their respective menus. These are not the only webpages regarding the IMV programme on the official site of the Social Security; there are others too (most significantly, the one where citizens can start and manage their application procedure [MISSM 2023c]), but all of them refer the user to the first of our chosen pages for further information.

After an initial, global analysis of the language featured on the two webpages, we have further selected two excerpts which, in our opinion, exemplify the stylistic choices made by their respective writers. Both segments, one per each of the pages under study, describe the obligations for the citizens who are entitled to the benefit and for those in their household. In the general information page, the fragment comes under the title *Obligaciones de las personas beneficiarias* ('Obligations of beneficiaries') (sample 1); and, in the FAQs page, the chosen portion is to be found as the answer to the question *¿Qué obligaciones asumo por ser perceptor del Ingreso Mínimo Vital?* ('What are my obligations as a recipient of the minimum vital income?') (sample 2).

In the context of our qualitative case study, the research question which inspires this paper (does excessive nominalization, as a possible source of ambiguity, work to the detriment of vulnerable lay citizens in legal settings?) leads us to two assumptions which we intend to put to the test. Firstly, we assume that the actual words of the law have been subjected to a progressive simplification (Bhatia 1993, 1997)⁸ in the two webpages under analysis to make them more accessible to the

⁸ Recognising the existence of different audiences with disparate communicative needs, Bhatia (1993, 1997) suggests two distinct sets of strategies to make legal texts clearer: one of them is aimed at *easing* them for a specialist audience, and the other at *simplifying* the same texts for lay readers.

general public. Ideally this would take us through a three-stop “communicative journey,” which would start with the original piece of legislation (drafted by legislators in a technical, elaborate style), then it would bring us to an intermediary halt at sample 1 (where the legal provisions are theoretically summarised for potential lay users, as claimed in the FAQs page), and finally would leave us at sample 2 (where essential questions unresolved by the previous summary should be answered). On this *journey*, each stop should represent, at least theoretically, a clearer piece of communication than the previous one. To check the extent to which the three texts differ and whether there is a manifest simplification process, we have compared them against each other, with rather discouraging results. To start with, sample 1, which is supposed to summarize the applicable legal provisions, replicates the text of the Act except for a very few omissions from the original piece (mostly, cross-references to other parts of the Act). More surprisingly, sample 2 also replicates the legal text except for the shorter opening paragraph and a greater deal of omission from the Act (specifically, nothing is said in sample 2 concerning the obligations of the members of the household, the so-called *unidad de convivencia* [‘unit of cohabitation’]). This means that the authors have not undertaken any simplification process but have merely reproduced the elaborate style of the source legislation both in their summary of the law and in their answers to citizens’ frequent questions. Such a decision (since it is a *decision*) implies a lack of empathy towards the numerous groups of potential users with limited educational backgrounds, who will likely have difficulty in reading and understanding an unaltered piece of legislation.

As for the second assumption we wish to examine as part of our case study, this involves analysing the degree of nominalization in sample 2 and suggesting, when needed, an alternative rewording favouring verb forms. In principle, we chose sample 2 because, as part of a FAQs page and theoretically more reader-oriented, the degree of nominalization found would give us more clues about how this trait permeates all kinds of linguistic output in legal settings. However, our findings so far have revealed that sample 2 is almost a literal, albeit partial, reproduction of the law, so in practice we will be studying the presence and effect of nominalization in the original Act as is reproduced in the FAQs page. In the following table, the left-hand column contains sample 2, where all action conveying nouns have

been underlined, and the right-hand column features a partial rewording with verb alternatives for the marked action nominalizations, with all changes also underlined. In our verb proposal, we have also used personal pronouns to give actions a personal dimension and made explicit who does what, or what affects whom. This has entailed identifying those imposing the regulations (the Spanish Social Security department) as *nosotros* ('we'), and those who must comply with them (the IMV beneficiaries) as *usted* ('you'), as well as occasionally replacing descriptive nouns like *titular* ('beneficiary') with the corresponding pronoun. In a few other cases, we have also altered the base verb of the Spanish noun used in sample 2 because the resulting verb form was not natural or clear enough in the context (for example, we have preferred *viajar* ['travel'] instead of the less specific *salir* ['depart'] as a verb replacement for the noun *salida* ['departure']).

Table 1. Sample 2 and our proposal in Spanish

Sample 2	Our proposal
<u>¿Qué obligaciones asumo por ser perceptor del ingreso mínimo vital?</u> Las obligaciones que asumen los perceptores de la prestación son: a) Proporcionar la documentación e información precisa en orden a la <u>acreditación</u> de los requisitos y la <u>conservación</u> de la prestación, así como para garantizar la <u>recepción</u> de notificaciones y comunicaciones. b) Comunicar cualquier cambio o situación que pudiera dar lugar a la <u>modificación</u>, <u>suspensión</u> o <u>extinción</u> de la prestación, en el plazo de treinta días naturales desde que estos se produzcan.	<u>¿Qué obligaciones asumo por ser perceptor del ingreso mínimo vital?</u> Las obligaciones que <u>asume usted como perceptor</u> de la prestación son: a) Proporcionar la documentación e información precisa <u>para acreditar que usted cumple</u> los requisitos y <u>para seguir recibiendo</u> la prestación, así como para garantizar <u>que usted recibe</u> las notificaciones y comunicaciones <u>que nosotros le enviemos</u>. b) Comunicar cualquier cambio o situación que pudiera dar lugar a <u>que nosotros modifiquemos o suspendamos la prestación que usted recibe, o a que</u>

c) Comunicar cualquier cambio de domicilio o de situación en el Padrón municipal que afecte personalmente a dichos titulares o a cualquier otro miembro que forme parte de la unidad de convivencia, en el plazo de treinta días naturales desde que estos se produzcan. d) Reintegrar el importe de las prestaciones indebidamente percibidas. e) Comunicar al INSS con carácter previo cualquier <u>salida</u> al extranjero tanto del titular como de los miembros de la unidad de convivencia, por un periodo, continuado o no, superior a noventa días naturales durante cada año natural. f) Presentar anualmente declaración correspondiente al Impuesto sobre la renta de las personas físicas. g) En caso de compatibilizar la prestación del ingreso mínimo vital con las rentas del trabajo o la actividad económica, cumplir las condiciones establecidas para el <u>acceso y mantenimiento</u> de dicha compatibilidad. h) Participar en las estrategias de <u>inclusión</u> que promueva el Ministerio de Inclusión, Seguridad Social y Migraciones.	<u>esta se extinga</u>, en el plazo de treinta días naturales desde que estos se produzcan. c) Comunicar cualquier cambio de domicilio o de situación en el Padrón municipal que <u>le</u> afecte personalmente a <u>usted</u> o a cualquier otro miembro que forme parte de <u>su</u> unidad de convivencia, en el plazo de treinta días naturales desde que se produzcan. d) Reintegrar el importe de las prestaciones indebidamente percibidas. e) <u>Comunicarnos</u> con carácter previo <u>si usted o alguno de los miembros de la unidad de convivencia va a viajar</u> al extranjero, por un periodo, continuado o no, superior a noventa días naturales durante cada año natural. f) Presentar anualmente declaración correspondiente al Impuesto sobre la renta de las personas físicas. g) En caso de compatibilizar la prestación del ingreso mínimo vital con las rentas del trabajo o la actividad económica, cumplir las condiciones establecidas para <u>poder acceder a dicha compatibilidad y seguir disfrutando de ella</u>. h) Participar en las estrategias que promueva el Ministerio de Inclusión, Seguridad Social y Migraciones <u>para ayudarlo a usted con programas encaminados a mejorar en lo social y en lo educativo</u>.
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Table 2. Sample 2 and our proposal in English (both sample 2 and our proposal are the authors' translation)

Sample 2	Our proposal
What are my obligations as a recipient of the minimum vital income? The obligations of the recipients of the minimum vital income are: a) To provide accurate documentation and information by way of <u>accreditation</u> that the requirements are met and as a means of <u>preservation</u> of the benefit, as well as to guarantee <u>receipt</u> of notifications and communications. b) To give notice of any change or circumstance that could give rise to the <u>modification, suspension</u> or <u>extinction</u> of the benefit, within thirty calendar days from the moment said change or circumstance occurs. c) To give notice of any change of residence or status in the Municipal Register that may individually affect the beneficiary or any other member of the unit of cohabitation, within thirty calendar days from the moment said change occurs. d) To reimburse any benefit amounts that may have been wrongly received. e) To give the INSS advance notice of any <u>departure</u> to a foreign country by the beneficiary or any of the members of the unit of cohabitation for a period of more than ninety calendar days, be they continuous or not, per calendar year.	What are my obligations as a recipient of the minimum vital income? <u>Your</u> obligations <u>as a recipient</u> of the minimum vital income are: a) To provide accurate documentation and information in order to <u>accredit that you meet</u> the requirements and <u>to continue to receive</u> the benefit, as well as to guarantee <u>that you will receive the notifications and communications that we will send you</u>. b) To give notice of any change or circumstance which could make <u>us modify or suspend the benefit you receive, or which could extinguish your right to the benefit</u>, within thirty calendar days from the moment said change or circumstance occurs. c) To give notice of any change of residence or status in the Municipal Register which may individually affect <u>you</u> or any other member of <u>your</u> unit of cohabitation, within thirty calendar days from the moment said change occurs. d) To reimburse any benefit amounts that <u>you</u> may have wrongly received. e) To give us advance notice <u>if you or any of the members of your unit of cohabitation travel and stay abroad</u> for a period of more than ninety calendar days, be they continuous or not, per calendar year.

f) To file the beneficiary's annual tax return. g) If the minimum vital income is compatible with any compensation for employment or economic activity, to comply with the terms set forth for the <u>access</u> and <u>preservation</u> of said compatibility. h) To take part in the <u>inclusion</u> policies promoted by the Ministry of Inclusion, Social Security and Migrations.	f) To file <u>your</u> annual tax return. g) If the minimum vital income is compatible with any compensation for employment or economic activity, to comply with the terms set forth to <u>access</u> and <u>continue to enjoy</u> said compatibility. h) To take part in the policies promoted by the Ministry of Inclusion, Social Security and Migrations <u>that are designed to help you improve your education and socially</u>.
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The number of action nominalizations in sample 2 is relatively low, so at face value it should not be interpreted as a crucial factor for the potential overall complexity of the text. Their transformation into personal verb forms (in the right-hand column), however, brings to light a wealth of hidden meanings and shows a care for the reader's needs which is lacking in sample 2, thus giving evidence of the shortcomings of nominalization. By way of illustration, the ambiguous *para garantizar la recepción de notificaciones y comunicaciones* ('to guarantee receipt of notifications and communications'), in paragraph (a), gives such a sense of detachment and abstraction to what is being said that readers will likely struggle to understand that what is dealt with is their right to be informed. By contrast, the verb alternative expresses this idea much more clearly, not least because it foregrounds the participants in the action: *para garantizar que usted recibe las notificaciones y comunicaciones que nosotros le enviemos* ('to guarantee that you will receive the notifications and communications that we will send you'). This said, may we conclude that a lay reader will find sample 2 hard to understand precisely because of the occurrence of the action nominalizations which have been marked? A preliminary answer, in the absence of further empirical studies, would be no.

An alternative answer would be that action nominalizations do affect the readers' ability to comprehend the message (in the sense that ordinary actions are disconnected from the readers' most immediate environment), but this is only one of many traits which, in combination, make sample 2 rather intricate and complex. In our opinion, it is especially significant that action-conveying nouns are not the only instances of nominalization to be found in sample 2; these are greatly outnumbered, in particular, by deverbal nouns transmitting effect or result (such as *information* [*información*], *notification* [*notificación*], *documentation* [*documentación*], *obligation* [*obligación*], *cohabitation* [*convivencia*], *requirement* [*requisito*], *benefit* [*prestación*], or *income* [*ingreso*]). Some of them are regarded as technical (and, as such, irreplaceable) by legal writers and civil servants, particularly in the form of coined noun phrases (for example, *ingreso mínimo vital* ['minimum vital income'] or *unidad de convivencia* ['unit of cohabitation']), and this explains why they are used with such profusion throughout the text. Whether some of these nouns are actually indispensable or not, the sum of all instances of nominalization in a single piece of text seems to add to the alienating nature of the legal message and increase the communicative distance between the writer and the reader.

To make things worse, nominalizations of every kind are not the only obstacles to understanding for readers in sample 2. Some of the characteristics usually linked to elaborate legal writing (for example, by the CMLJ's field studies previously mentioned) are also present here. Specifically, the author seems to have favoured long, convoluted sentences, as well as unfamiliar terms with no technical meaning attached (such as *perceptor* ['recipient'] or *prestación* ['benefit']). All these factors, taken as a whole, contribute to a piece of communication which is inefficient and unfit for purpose. As stated, the abuse of nominalizations is only one of the linguistic decisions which evidence the author's overall lack of empathy towards potential readers, in the sense that he or she seems to have made no effort to acknowledge the average socioeconomic and educational background of IMV beneficiaries-to-be (the main addressees of the webpage contents).

Not attending to the particular communicative situation (who is to read the message?, what do official statistics say about the users' reading skills?, etc.) condemns any linguistic endeavour to a sure failure and, in a legal situation, results in inequity.

As Van Dijk (2008, 827) states, one should not over-interpret the ideological load of any linguistic feature (for instance, criticizing nominalizations for their own sake), but instead pay attention to the co-text and the context, and check if that feature was chosen over other more plausible grammatical possibilities. In our case study, we claim that the decision to solve lay people's doubts by literally giving them the law (in an excerpt peppered with conventional, complex linguistic traits, nominalization among them) was chosen over other options that would have been more reasonable and reader-sensitive. Whether it was a conscious decision by the author or just the effect of inertia and tradition is another matter.

5. Conclusions: Nominalization vs. effective, fair communication

It is worth bearing in mind that legal texts, unlike their scientific counterparts, are more directly aimed at the ordinary woman and man on the street, who will have to react one way or another when they are included in this type of text (be they the issuer, as in a claim form, or the receiver, as in the case of a summons). Thus, while some stakeholders in the process of drafting scientific reports may view nominalizations in a positive light, as they contribute lexical density and concision, they should not perhaps be viewed as so beneficial in legal circumstances. The overuse of action nominalizations (particularly when used one after another or combined with further nouns of effect or result) in legal documents may lead to confusion and, thereby, to situations in which laywomen and laymen in legal affairs and procedures find themselves at a disadvantage, where their defence and equal opportunities could be undermined.

However, even if this were not the case, there is an argument to be made for revisiting the excessively formal tone and level of abstraction that the

tendency towards nominalization in legal discourse gives rise to. As the verb alternatives proposed by us in our case study have shown, it may well be the case that texts in this field not only become clearer but also gain in terms of how effectively they communicate their message(s) if verb forms are prioritized over nouns. In this sense, it would be useful to carry out empirical studies in which a potential reader is presented with two alternative texts, one with a higher proportion of nouns than the other, in order to determine which of the two better fulfils its communicative function of informing the receiver about a specific legal process or event. This would enable us, *a priori*, to test the extent to which real communicative effectiveness is lost when long lists of nouns are used as opposed to simple verb phrases, and to determine the potential loss of communicative effectiveness when essential complements, such as the agent, are omitted.

An example of empirical research of this type can be found in García Alfonso's (2017) small-scale study, consisting of two Spanish translations of the same source legal text in English legalese. In one of them, he used nouns to convey actions, which made the text slightly longer as more words were required to express the semantic elements of the action, while in the other one, these actions were communicated more directly by using verbs. He then showed them to two groups of 16-year-old high-school students (one group per text), all of whom spoke Spanish as their mother tongue, and asked them to answer a set of comprehension questions about what they had read. The two groups performed quite similarly, both in terms of the rate of correct answers and the time required to complete the task. Even bearing in mind that this was a very small-scale piece of research, and that the number of subjects was relatively low, the result apparently indicates that nominalization, as an isolated factor, is not necessarily a major handicap for comprehension (or, in other words, that it need not have a radical impact on how well a person understands a text). García Alfonso's outcome agrees, at least partially, with the conclusions in our case study regarding information about a benefit programme aimed at vulnerable citizens, in the sense that it suggests that single traits of complexity, when taken separately, do not have a determining impact on clarity of expression.

This idea can be linked to the conclusions drawn by Bayés (2021), who dismisses the application of isolated plain language strategies as a means to improve the texts issued, in his case, by civil servants. In his view, isolating and applying a certain strategy may give rise to “Frankenstein texts,” where the overall sense of obscurity may even be increased when the writer applies a singled-out technique aimed at clarifying the text (Rada 2022, 39). However, as our case study apparently suggests, we think it is right to say that, in combination with other features (such as the preference for long and convoluted sentences, nouns of effect or result, or unnecessary jargon), we should consider nominalization a strategy that writers should employ with care for two main reasons: (a) because it usually leads to more words in the sentence (especially within verb phrases), and (b) because it may be a strategy to conceal the agent (with all the obscuring consequences pointed out by followers of critical discourse analysis). The former problem is, in our opinion, a stylistic question, a relatively harmless aspect that in principle should not obscure understanding. The latter, on the other hand, may be more politically charged, as it keeps (vital) information from the reader, rendering him or her incapable of reacting to the text in a proper way, in a context of a clear imbalance of power in communication. Cutts (2009, 64) says that the “word-savings [obtained by using verbs] would be too small a gain to justify the effort, if brevity was the only criterion. More important is that the sentences [where mostly verbs are used] can now be read without stumbling and backtracking to get the meaning.”

As regards nominalization, the possible adoption of Buber’s dialogic alternatives cited by Willerton (2015) will depend on whether legal professionals wish to engage in a cooperative dialogue with lay people (e.g., by using verbs to express actions in a straightforward fashion), or if they prefer to maintain the status quo of legal discourse as a distant, technical form of communication (e.g., by treating actions and processes as obscure, quasi-sacred noun entities). By choosing one specific drafting technique, writers take an ethical stance on how they deal with the imbalance of power in the legal system.

When referring to the overuse of nominalization in scientific writing in humanities and social sciences, Billig (2008, 837) describes a temptation that could be perfectly extrapolated to the drafting of professional legal practitioners:

“Too many of us have fallen in love with our technical vocabulary—and love can make us blind.” Even in the absence of more thorough, robust empirical studies, it seems circumspect to conclude that legal writers should avoid this temptation and, more generally, base their stylistic choices chiefly on their readers’ needs.

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What was the language of the judgment again?: Traces of bilingualism in monolingual judgments from South Tyrol, Italy

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To cite this article:

Teutsch, Alexander. 2023. "What was the language of the judgment again?: Traces of bilingualism in monolingual judgments from South Tyrol, Italy." In "Ideologies and Language Rights Meet (and Clash)," edited by Rafael Castelló-Cogollos & Esther Monzó-Nebot. Special issue, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 89–117.

<https://doi.org/10.7203/Just.2.24847>.

Article received: 10/07/2022 Final version accepted: 06/09/2023



© By the author, 2023. JUST. JOURNAL OF LANGUAGE RIGHTS & MINORITIES, REVISTA DE DRETS LINGÜÍSTICS I MINORIES, VOL 2 (2), CÀTEDRA DE DRETS LINGÜÍSTICS – UNIVERSITAT DE VALÈNCIA. ISSN: 2952-2307

What was the language of the judgment again?: Traces of bilingualism in monolingual judgments from South Tyrol, Italy

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Abstract

Multilingualism is often perceived as a burden for judicial institutions that are used to holding proceedings in a specific language. However, by translating resources and evidence from a different language into the language of a proceeding, courts are enabled to write judgments based on a monolingual set of resources potentially with minimal or no reference to their source language. This article aims at uncovering this myth of judicial monolingualism, showing how multilingual courts act when indispensable resources are only available in a language different from that of the proceedings. By analysing monolingual criminal judgments delivered by Justices of the Peace in the bilingual (German/Italian) Province of South Tyrol, Italy, this article shows how, in citing case-law available only in Italian, traces of Italian are introduced in judgments written in German. Through a quantitative study, three approaches to deal with this issue have been analysed (i) collages between the two languages; (ii) direct quotation from Italian; and (iii) translation. The article critically analyses these three approaches and highlights an alternative approach, consisting in a combination between direct quotation from Italian and a translation into German, in order to guarantee both legal certainty and adequate understanding for all concerned parties.

Keywords: Judgment drafting techniques, bilingual court practises, bilingual resources, language status; ideological monolingualism

1. Introduction

In his book *Burning Chrome*, the American-Canadian writer and novelist William Gibson (1987, 17) states: "It's impossible to move, to live, to operate at any level without leaving traces, bits, seemingly meaningless fragments of personal information." Now, while it may be compelling to agree with this statement, it is equally well known that traces are not only easily left, but likewise covered, also in the realm of the law (Bucholtz 1995). Examples of covering practices include transcription of evidence available in a different language into the language of a proceeding (Bucholtz 1995; 2009) or the omission of sentences directly uttered in the language of the proceeding by a person whose testimony is being translated from another language (Maryns 2005; 2006).

The underlying preference towards monolingualism in court practice, leading to the cover up of traces in different languages, is quite salient at many levels. It can be seen in the presumed mere filter function of a translated testimony or oral statement (Angermeyer 2008), or the predominant citation of same-language foreign case law (Gelter & Siems 2013). While translating into the language of the proceeding or using primarily resources in that language is crucial to guarantee the capability of a court to decide a case, it removes the complexity of resources in different languages and clears the path for a monolingual judgment, which potentially makes little or no reference at all to the source language of the resources it is based on.

A question worthy of investigation that this article aims to address is, then, how judges go about situations where reproducing what is labelled here as the myth of judicial monolingualism is untenable. In other words, what types of approaches do judges, in the absence of an official translation, employ when they have to refer to resources available only in a language different from the one of a proceeding?, and what are the implications for court practices and language rights?

To address this question, this article is structured in the following manner. First, it outlines the essential features of the myth of judicial monolingualism and its critical issues (section 2). Then, it provides a brief literature review on current scholarship on the myth of judicial monolingualism and identifies how

existing scholarship is different from the present study (section 3). After that, it provides an introduction to the historical evolution of language use in court in the bilingual (German- and Italian-speaking) Province of South Tyrol, Italy, focusing on how judicial monolingualism is but a myth in the judicial practices of Justices of the Peace in this territory (section 4). Subsequently, the methodology is described and results of a quantitative study on criminal judgments, featuring the issue of inserting passages of case law in Italian into judgments in German are presented through examples, highlighting different approaches (section 5). In the following section, the findings are critically discussed and an alternative approach to studying those observed in current legal practice is suggested (section 6). Furthermore, in the same section, the limitations of the present work are identified. Finally, in the conclusion, a brief recapitulation is made, outlining the most important aspects of the article and possible follow-ups in further research (section 7).

2. The myth of judicial monolingualism: Issue or necessity?

The variety of narratives involved in a court case can be made up of a variety of languages differing from the language of the proceeding. Usually, what is written or said in these different languages is quickly translated into the language of the proceeding, creating a monolingual narrative, which rarely accounts for the multilingual origin of its sources. Similarly, there is a tendency to consult legal resources such as foreign case law, preferably in the same language of the judgment.¹ All of this amounts to what this article calls the myth of judicial monolingualism, based on the idea that a judgment is the product of a crystalline and logically consistent legal

¹ For the sake of simplicity, *language of the judgment* and *language of the proceeding* will be used interchangeably, even though there certainly are cases of judgments written in a language differing from the official language of the proceeding it stems from. For instance, Powell (2016, 306) mentions the case of Bangladesh, where English is still overwhelmingly used in written documents, even for cases heard in Bangla.

reasoning, carried out and based on resources in a single language, the one of the proceeding.²

While there certainly are many court proceedings where this holds true and the need to translate crucial resources for the final decision into the official language of the proceeding aims at achieving its uniformity and comprehensibility, this myth bears issues. First of all, it reduces a plurality of voices to a single one, preferring uniformity over transparency. Moreover, it carries on a fiction intrinsic to law itself, which is to create an apparent unity consisting of one voice, one language, and one law. The issue at hand can be observed in both officially monolingual and multilingual legal settings. In the former, the myth is perpetuated by asking statements or testimony to be delivered either fully and exclusively in the language of the proceeding or completely in another language with translation in full into the official language (Maryns 2005; 2006; 2012). In the latter case, in turn, there is a tendency to create several parallel instances of monolingualism offering the possibility to be addressed and to function in different languages, but essentially replicating the fundamental preference for monolingualism (Powell 2008).

This “either/or” approach pointed out by Maryns (2012, 303) is not only a cornerstone of the protraction of the myth of judicial monolingualism, but it is most apparent in the final judgment. Indeed, court judgments absorb all the evidence and legal resources, regardless of their original framing in another language, and craft a monolingual ruling, from which the original language of the sources used rarely transpires.

Having mentioned the term resources extensively so far, it is time to define it and to make a critical distinction. By resources, I quite broadly refer to the tools judges use to reach and back up their decisions, and I distinguish between factual and legal resources. Factual resources encompass every proof-bearing element, admitted into evidence, that is relevant for the decision. Legal resources embrace primarily what is crucial for judicial decisionmaking, such

² While conceptually not identical, the myth of (judicial) monolingualism draws on the concept of “bias towards monolingualism” coined by Eades (2003).

as constitution, legislation, and case law.³ Yet, legal resources go beyond this by including also additional material informing legal reasoning, such as academic articles or case notes. Both types of resources can be featured in monolingual as well as multilingual judicial settings. However, factual resources are, generally speaking, more prevalent, as it is more likely to have a piece of evidence originally drafted in a different language than a piece of case law or legislation. Conversely, legal resources are more likely to be used in a multilingual judicial setting.

3. Literature review

The issues arising from the myth of judicial monolingualism with regard to what I called factual resources have been a topic featured in scholarship from the mid-1990s onwards, since Mary Bucholtz's work on translated transcripts (Bucholtz 1995; 2000; 2007; 2009). Particularly in some of these contributions (1995; 2009), Bucholtz focuses on the judicial system and how numerous ways of translating and transcribing testimony provided in a different language into the language of the proceeding may lead to distortion and injustice.

Moreover, the fictional creation of monolingualism has been a prominent object of inquiry in sociolinguistic research. Eades (2003) has raised the general issue of how institutional bias towards monolingualism affects judicial settings, and puts speakers of second languages or dialects at a disadvantage. Building on this study, Maryns (2005; 2006; 2012) has focused on the clear-cut approach in Belgian asylum proceedings, where applicants are required to either speak their own language, translated and transcribed into the language of the proceeding, or to speak the official language, without permission to switch to the other language for individual

³ Admittedly, this varies greatly depending on the jurisdiction one looks at. For a comparative analysis of sources of law, see Bell (2018).

utterances. Based on analogous data, Maryns and Blommaert (2001) have illustrated how these clear-cut practices fail to acknowledge the complexity of applicants' language repertoire. In a slightly different vein, but departing from the monolingual bias thesis, Angermeyer (2008; 2015) has highlighted how bilingualism is deemed to be a prerogative of the interpreter inside the courtroom, while all other courtroom actors are supposed to be monolingual. In that, only the interpreter would be able to switch between languages, a claim refuted by the author's study on small claim courts in the United States.

On the contrary, the aspect of using legal resources originally drafted in a different language, which is at the heart of the present article, is less studied. Even so, especially in the context of minority or multiple official languages, the issue of management and actual use of bilingual resources has been addressed. Among many, the use of Cantonese in the bilingual judicial system of Hong Kong (with English and Cantonese as official languages) has been analysed, finding that in order to maintain the formal equality of both languages, many formally invisible but functionally indispensable instances of translation are involved (Lee 2020). While this highlights the constructed nature of official bilingualism, the attempt to keep this construction intact triggers a highly nuanced approach by legal practitioners towards translated legal resources (Tam 2020). On one hand translation may create anxiety, described as *translatophobia* (Lee 2020, 3), but on the other hand this anxiety can be channelled into a fetishization of translation, completely disregarding the translated nature of texts and treating them as an original (Lee 2020, 5). Powell (2004; 2020) and Powell and Saw (2021) have revealed how judges in the bilingual judicial system of Malaysia (with English and Malay as official languages) have a preference towards reproducing passages taken from judgments in English directly in that language, even if their judgment is in Malay. Moreover, working with the concepts of unbalanced bilingualism and *diglossia*, Powell (2016) elucidates the terminological, structural, and educational issues that impede a higher diffusion of Malay in Malaysian apex courts, leading to the higher-instance jurisprudence being available for the most part only in English. On a more

theoretical level, an important contribution to the analysis of multilingual legal orders is constituted by Leung's (2019) reflection on the concept of shallow equality. Far from dismissing practices and policies connected to the concept *per se*, Leung points out how shallow equality may be employed to achieve legitimate goals. In fact, both official monolingualism and multilingualism can successfully guarantee the "survival of a polity" without making one, as such, better than the other (Leung 2019, 249). Departing from a pragmatic perspective of what is called strategic pluralism, the tale of shallow equality is, however, one of caution, aiming to show how linguistic equality is not an intrinsically desirable good, as formal recognition can be used to conceal highly derogative practices.

Moving away from the national or regional perspective towards European Union (EU) and comparative law, the two most prominent attempts in this field are Graziadei (2020) and Gelter and Siems (2013). Focusing on EU Law, Graziadei (2020) remarks that the European Court of Justice, in drafting the original version of its judgments during preliminary reference proceedings, tends to accommodate the language choice of the referring court. The fiction behind this choice is pointed out, as it is common knowledge that the actual original version is usually drafted in French, then translated into the language of the proceeding, and eventually translated into all the other official languages. Arguing from a comparative perspective, Gelter and Siems (2013) quantitatively studied the factors affecting the reference practices of various apex courts, claiming that language overlap generally plays a more prominent role when referencing foreign case law than other aspects, such as geographic or cultural similarity between legal systems.

While these pieces of scholarship offer important insights into specific features of the myth of judicial monolingualism, they differ from the present study in various ways, as will become clear in the next section. Firstly, Graziadei (2020) and Gelter and Siems (2013) focus on how monolingual preferences impact the interaction between different legal orders, be it EU and national, or several national legal orders. Secondly, all articles mentioned seem to assume, and do not problematize the fact, that the reference will be either made exclusively in the original language of the judgment (Gelter

& Siems 2013) or only in the language of the cited passage (Powell 2020). Finally, Gelter and Siems (2013) highlight the crucial difference between courts making their judgments available in different official languages, and those rendering their judgments in the mere language of the proceeding, although only in passing. The resulting implications of monolingualism on referencing practices are crucial to the present work.

This work relates most closely to the discussions on citing practices of judgment passages drafted in another language within a single multilingual jurisdiction found in Powell (2004, 123–124; 2020, 211) and Powell and Saw (2021; 11).

4. Uncovering the myth: Bilingual traces in the judicial practice of South Tyrol

The present section highlights the disparity of legal resources within a single jurisdiction—Italy—which is a monolingual jurisdiction on a national level, but multilingual on a subnational level. The focus will be on South Tyrol (officially Autonomous Province of Bolzano, hereafter the Province),⁴ whose administration of justice works bilingually, rendering judgments in both Italian and German.⁵ The aim is to uncover the myth of judicial monolingualism by showing how judges in criminal matters, in this geographical area, act when citing rulings available in Italian only.⁶

⁴ Names, locations, and designations referring to South Tyrol will be used in English in this article, with the Italian original and, if relevant, the German one in brackets. After their first use, only the English name will be used. Designations referring to other multilingual entities or to institutions of national relevance will be used in English and in the Italian original.

⁵ In this article, I will use *judgments in German* and *German judgments* synonymously, meaning a judgment formally written in German only.

⁶ To be sure, South Tyrol is the only subnational entity where a language different from Italian can replace the national language (Italian) in full. However, it needs to be mentioned that other minority languages may be used by accused persons in their pleadings and statements during a criminal trial. These are—pursuant to Constitutional Act no. 4 of 1949, at art. 38—French in Aosta Valley (*Valle d'Aosta*), which is a co-official language in this Region, and Slovenian in Friuli-Venezia-Giulia

4.1 A brief historical recap

The territory of South Tyrol was ceded from Austria to Italy by virtue of the Treaty of Saint German-en-Laye at article 27, signed on September 10th, 1919. The Treaty was ratified in Italy by Royal Decree no. 1804 of 1919 and converted into law by Act no. 1322, 1920, when approximately 97% of the population were German native speakers (Auckenthaler 2017, 10–11).

Judicial traces of bilingualism in this area date back to the early 1920s, when formerly Austrian judges, from 1922 onwards, had to apply Italian criminal law (Royal Decree no. 887 of 1921), but kept writing many of their judgments in German. Due to increased political pressure deterring the use of German in the public sector, and eventually leading to the dominance of Italian in this sector, the presence of some Italian legal terms became a recurring feature in formally German judgments (Zanon 2001, 166). The use of languages different from Italian was banned by Royal Decree no. 1796 of 1925, while German disappeared from judgments only two years later, in 1927. Yet, the German language certainly remained present in the daily practice of the courts, given the high number of German speakers in the area, who were deprived of the right to use their language, and forced to stand trial in Italian (Zanon 2001, 161).⁷ Nonetheless, a bilingual practice consisting of entire proceedings and judgments formally in either Italian or German, as had been the case after the introduction of Italian criminal law in 1922 and soon before the abandonment of German in 1927, re-emerged only many decades later, in 1993.

(Act no. 38 of 2001, at art. 8). Moreover, in the Region of Trentino-South Tyrol, Ladin may be used before local justices of the Peace (Presidential Decree no. 574 of 1988, at art. 32 para. 4 and Legislative Decree no. 592 of 1993, at art. 5). At local level, other minority languages may be used before local Justices of the Peace, if it is proved that a sufficient number of speakers resides in the particular area in which the proceeding takes place (Act no. 482 of 1993, at arts. 3 and 9).

⁷ This was the case not only because many of the former Austrian judges remained in office, but also due to the partial revival of the German language in the period from September 1943 to May 1945, when South Tyrol was administered by Nazi Germany, enhancing the use of German in courts (Zanon 2001, 161).

After a fierce political debate accompanied by acts of violence, the two languages had already been placed on an equal footing in 1972 thanks to the 2nd Autonomy Statute (Presidential Decree no. 670 of 1972, at art. 99), granting citizens also the right to use German with local authorities and courts (art. 100). The precise regulation on how trials in German should be carried out came only many years later, in 1988, with a commencement date set four years after (Presidential Decree no. 574 of 1988, hereafter Decree 574/88).⁸ While German is still clearly dominant at Provincial level, with roughly 70% of the population belonging to this language group (Autonomous Province of South Tyrol 2021, 15), at national level, German is a minority language, the only one capable of substituting Italian fully in court proceedings and judgments (Decree 574/88, at arts. 13 et seq.). This is reflected in the accused person's language rights, who regardless of her mother tongue can require the trial against her in either Italian or German. Judges and prosecutors have to conform to the decision during trial and in drafting the judgment (Decree 574/88, at art. 1, para. 1, lit (b) and (c), art. 13, and 18 para. 2).⁹

4.2 German proceedings: But how many?

In terms of percentages of proceedings in German, there are no updated numbers available. According to a quantitative study based on data from 1998, the use of German at the Court of First Instance (*Tribunale/Landesgericht*) and the Court of Appeal (*Corte d'Appello/Oberlandesgericht*) of Bolzano, did exceed 10% of all criminal cases by a small margin.¹⁰ Numbers were significantly higher

⁸ Hence, the Decree came into effect only in 1993. The current version of this Decree can be found in Italian and German on the website of the Autonomous Province of Bolzano/Bozen (Commissione dei 12. 1988.).

⁹ Technically, it is also possible to conduct a bilingual trial, in case of a single trial against several accused persons choosing different languages or in case of a civil party (*parte civile*) claiming damages during the criminal proceeding (Decree 574/88, at art. 18 para. 1). Due to its complex and time-consuming nature, it is mostly avoided in practice, being used in about 1% of all proceedings (Zanon 2001, 172).

¹⁰ 11.1% and 13.3%, respectively (Zanon 2001, 172).

in proceedings before some Justices of the Peace, coming close to 50% (Zanon 2001, 172).¹¹ In the last decade, the number of criminal proceedings held in German are estimated to have risen, given the fact that in 2015 the right to request a trial in German was extended to all persons standing trial, with no particular requirements (Decree 574/88, at art. 1-bis).¹² The existing estimates differ largely, from below 25% only in criminal matters (Rosani 2018, 173) to 40% overall (Alber & Palermo 2012, 295).

4.2.1 German as official language: Opportunity or burden?

While the reintroduction of German as an official language in court in 1993 can be considered a political success, judges and other legal practitioners have openly raised their issues with the use of German in the courtroom. Two aspects were primarily voiced: firstly, the lack of consistent terminology and, secondly, the lack of an official translation of crucial legal resources into German (Colluccia 2000, 381–388; Zanon 2001, 176–185).

As to the first aspect, a so-called terminology commission (*Commissione Paritetica di Terminologia/Paritätische Terminologiekommision*) was established pursuant to Decree 574/88 at article 6, whose work has consisted in working out terminology lists based on a comparative method between legal languages and legal systems featuring the German language.¹³ The lack of an effective sanctioning power in case of deviation from their normed terminology (Palermo & Pföstl 1997, 211) and the insufficient knowledge of existing terminology among a group of legal practitioners has led to a partially inconsistent use of

¹¹ The Justice of the Peace of Merano/Meran conducted 46% of its oral proceedings in German, while the one of Brunico/Bruneck reached 56% (Zanon 2001, 172).

¹² The previous obstacles posed by national legislation to non-residents who requested a proceeding in German and the resulting language rights and EU-Law issues are illustrated in Deutsch (2020).

¹³ On the functioning of and the obstacles faced by the terminological commission, see among many: Zanon (2008), Chiocchetti, Ralli and Stanizzi (2013), and Chiocchetti (2019).

the prescribed terminological equivalents in German, regularly favouring terms developed within legal practice itself (Zanon 2008, 58).¹⁴

The second aspect relates to the fact that most codifications of Italian law have, over the years, been translated into German, while case law has been regarded only marginally.¹⁵ This is particularly problematic in light of the circumstance that apex courts, such as the Italian Constitutional Court (*Corte Costituzionale*) and the Italian Supreme Court (*Corte di Cassazione*), render their decisions in Italian only, with a subsequent English translation available for some judgments of the former.

This brings us back to the question mentioned in the introduction: Since judges from lower courts constantly refer to the case law of these two courts in their judgments, how do they and how should they cite them in their German judgments? The underlying hypothesis in approaching this question is that being virtually forced to consult and cite resources available only in another language impairs the preservation of the myth of judicial monolingualism and, conversely, invites judges to leave traces of bilingualism in their judgments.

4.2.2 Case in point: Justices of the Peace

In order to make an attempt at answering the question mentioned above, I examined judgments delivered by a specific type of first instance judges, being the so-called Justices of the Peace (*Giudici di Pace*/Friedensrichter).¹⁶ Currently,

¹⁴ Since 2013, the work on German legal terminology is continued by the Institute of Applied Linguistics of the European Academy (Eurac) in Bolzano (Chiocchetti 2019, 15–17) which is focusing on the development of online resources, such as the database bistro: <http://bistrosearch.eurac.edu/>.

¹⁵ Pan (2020, 220–221) offers a detailed overview of how these translation projects were carried out. However, while by 1995 the most important civil and criminal codes of substantial and procedural law had been translated, the translation of the criminal code (*codice penale*) has not been revised since then (Riz & Bosch 1995). The code of criminal procedure (*codice di procedura penale*) even dates back as far as 1991 (Bauer et al. 1991).

¹⁶ Since the so-called Riforma Orlando (Legislative Decree no. 116 from 2017) modifying many aspects of criminal procedure, the official name of these judges has been changed to “Honorary Justice of the Peace” (*Giudice onorario di pace*/Ehrenamtlicher Friedensrichter). As this expression is rarely used and could be misleading, the previous name of this institution is used.

there are seven Offices of the Justice of the Peace within the Province, amounting to a total number of ten active judges (Regione Trentino-Alto Adige n.d.). Their formal institution by law is enshrined in Act no. 374 of 1991. These judges deal, next to civil cases and some cases relating to opposition against administrative sanctions, with minor crimes, such as intimidation (*minaccia*), defamation (*diffamazione*), and some instances of bodily harm (*percosse*) (Legislative Decree no. 274 of 2000, at art. 4). Given the minor weight of the crimes within their jurisdiction, these judges inflict only mild penalties, such as fines, community service, or house arrest (Legislative Decree no. 274 of 2000, at art. 52 et seq.).

While formally considered honorary judges in accordance with article 106 of the Italian constitution, as it is not required to have passed the bar exam to become Justice of the Peace, these judges are still required to have, among other criteria, a law degree (Legislative Decree no. 116 of 2017, at art. 4, para. 1). Besides, additional qualifications, such as experience in legal practice or in teaching law-related subjects, are criteria of preference (Legislative Decree no. 116 of 2017, at art. 4, para. 3). Moreover, regardless of their qualification as honorary judges, Justices of the Peace aiming to work in South Tyrol have to conform to the requirement of bilingualism (Legislative Decree no. 116 of 2017, at art. 4, para. 1, lit. g), as do all the other judges in the Province (Presidential Decree no. 752 of 1976 at art. 39). Hence, they need to have a C1 level in both Italian and German according to the Common European Framework of Reference for Languages. Whereas this language requirement should guarantee a sufficient proficiency in both languages, it does not equally guarantee proficiency in both legal languages, leading to imprecise judgments in German in need of formal revision, a persisting problem within the judiciary in South Tyrol (Zanon 2001, 181–182).

5. In search of traces: A quantitative study

5.1 Methodology

Unlike those of higher courts within the Province, many judgments delivered by the Justices of the Peace from 2006 onwards are available online, which makes

working with this type of judgments particularly accessible.¹⁷ These judgments have been chosen because I expected a higher variety of approaches, given the numerous Offices of the Justice of the Peace widespread around the Province, compared to the other Courts within the Province, being a single Court of first instance and a single Court of Appeal, both located in the capital of Bolzano/Bozen. Moreover, Justices of the Peace draft relatively brief judgments, rarely exceeding three pages, which makes spotting bilingual traces more straightforward.

First, I selected all monolingual German judgments in criminal matters handed down in the time period 2006–2022 ($n=120$), which is roughly 20% of the total number of criminal judgments in this time period ($n=615$), and analysed them in terms of references to case law available only in Italian.¹⁸ Roughly half of this set of judgments ($n=55$) featured references to courts located outside the bilingual territory, mostly the Italian Constitutional Court or the Italian Supreme Court ($n=53$). Then, I looked specifically at how these references were made, observing a common pattern of three distinct approaches, namely: (i) collage; (ii) direct quotation, and (iii) translation.¹⁹

(i) By collage I mean an insertion of a judgment's fragment, usually taken from its *ratio decidendi*²⁰ drafted in the Italian language, which is summarized or explained in its essence in the language of the judgment before or after the insertion.

Example 1: Justice of the Peace of Egna/Neumarkt, judgment no. 9 of 09.11.2020

(German underlined, Italian in italics, English translation in square brackets)

¹⁷ The judgments delivered by the Offices of the Justice of the Peace in the Region of Trentino/South Tyrol are available on the Region's website (Regione Trentino-Alto Adige n.d.).

¹⁸ The listed numbers were last accessed on June 7th, 2022.

¹⁹ The examples provided are connected passages from judgments that have been subdivided into parts to highlight the approach under examination more easily. In case of longer passages, selected sentences have been omitted for the sake of clarity, without thereby changing the order or purpose of the language(s) used. Quotation marks are reproduced as they appear in the judgments.

²⁰ By *ratio decidendi* I mean the passage of a judgment where the core of a court's reasoning in a concrete case is laid bare, which can serve as a guiding principle for subsequent analogous cases.

Der Artikel 35 GvD Nr. 274/2000 gesteht dem Richter die Entscheidung über eine angemessene Entschädigung zu.

[Article 35 GvD No. 274/2000 grants the judge discretion to decide on appropriate compensation.]

"... giustificato dalla necessità per il giudice di pace, ai sensi dell'espresso disposto di cui del D. Lgs. n. 274/2000, art. 35, comma 2, di valutare l'idoneità delle attività risarcitorie e riparatorie a soddisfare le esigenze di riprovazione del reato e quelle di prevenzione". Cass. Pen., sez. IV, 30.01.2015, n. 4610.

["... justified by the necessity for the justice of the peace, in accordance with the explicit provision of Legislative Decree No. 274/2000, Article 35, Paragraph 2, to assess how suitable compensatory and restorative activities are to meet the requirements of reprobation of the crime and those of prevention." Supreme Court, Criminal section IV, 30.01.2015, no. 4610.]

In diesem Fall hält die Friedensrichterin, dass (sic!) die Entschädigung, aber nur für eine Erklärung der Unzulässigkeit des Verfahrens laut Art. 35 G.v.D. vom 28. August 2000, Nr. 274

[In this case, the justice of the peace considers the compensation, limited to the matter concerning the declaration of inadmissibility of the proceedings pursuant to Art. 35 G.v.D. of August 28, 2000, No. 274]

("...solo se ritiene le attività risarcitorie e riparatorie idonee a soddisfare le esigenze di riprovazione del reato e quelle di prevenzione.")

[("...only if she deems the compensatory and restorative activities suitable to meet the requirements of reprobation of the crime and those of prevention.")]

ohne die Schadensersatzforderungen der geschädigten Parteien im zivil Wege zu beeinträchtigen, durchaus als geeignet zu betrachten ist.

[without affecting civil damages claims by injured parties, to be regarded as quite appropriate].

In this example, we can observe how the decisions the judge takes and the legal foundation they are based on are laid down in German, while the fragments

taken from the case law of the Supreme Court are reported in the Italian original. The explicatory parts in German, briefly summarizing the essence of this case law and what it implies for the case at hand, precede the insertion of the fragments in Italian.

(ii) Direct quotation, on the other hand, refers to cases where this very same insertion of a fragment goes unannounced and unexplained, so the Italian text is essentially thrown into the German judgment without proper explanation.

Example 2: Justice of the Peace of Egna/Neumarkt, judgment no. 3 of 24.02.2020

“... Il giudice di pace si limita a verificare la congruità del risarcimento con valutazione sommaria ed incidentale, senza efficacia ulteriore rispetto a quella prevista dal D. Lgs. n. 274/200, art. 35, sicché nell'eventuale giudizio civile di danno la parte civile non risente alcun pregiudizio dalla sentenza di proscioglimento predetta (cfr. Sez. 5, n. 27392 del 06/06/2008, Di Rienzo, Rv. 241173)

[“The justice of the peace limits herself to verifying the adequacy of the compensation with summary and incidental assessment, without any further effectiveness than the one provided by Legislative Decree No. 274/200, Art. 35, so that in the potential civil judgment on damages the civil party is not affected by the aforementioned acquittal judgment (cf. section. 5, no. 27392 of 06/06/2008, Di Rienzo, Rv. 241173)]

Peraltro, nel giudizio civile di responsabilità, è solo la sentenza di assoluzione – pronunciata in giudizio per insussistenza del fatto, mancata commissione dello stesso da parte dell'imputato o ricorrenza di un'esimente – che ha efficacia preclusiva di giudicato; le sentenze di proscioglimento per estinzione del reato non statuiscano sulla responsabilità dell'imputato e pertanto non possono avere alcun effetto negativo per la parte civile ...” Cass. Pen., sez. IV, 30.01.2015, n. 4610.

[Moreover, in the judgment on civil liability, only the judgment of acquittal—rendered at trial because the act did not occur, the defendant did not commit it, or due to the occurrence of an exemption—has a preclusive effect as res judicata; judgments of acquittal due to extinguishment of the crime do not rule on the responsibility of the defendant and therefore cannot have any adverse effect for the civil party (...)] Supreme Court, Criminal section IV, 30.01.2015, no. 4610.]

Die Richterin erachtet somit die Voraussetzung, um zu einem Urteilsspruch gemäß Art. 35 GvD 274/2000 zu gelangen, als gegeben.

[The judge thus considers the condition for reaching a verdict according to art. 35 GvD 274/2000 to be fulfilled.]

This example is different from the previous one, as it does not provide any explanation whatsoever on what the Supreme Court states, but limits itself to provide what follows from it, hence the fulfilment of the condition for reaching a verdict in the present case.

(iii) Finally, in the case of translation, judges translate the cited paragraph of the Italian judgment into German, with no insertion of the original text.

Example 3: Justice of the Peace of Merano/Meran, judgment no. 14 of 22.03.2022

In diesem Fall ist die Aussage der verletzten Person durch das ärztliche Zeugnis vollinhaltlich bestätigt worden, insbesondere was die Verletzung am Gesicht anbelangt. Von besonderer Bedeutung ist der folgende Leitsatz der Kassation:

[In In this case, the testimony of the injured person has been fully confirmed by the medical report, especially with regard to the facial injury. Of particular importance is the following *ratio decidendi* of the Supreme Court:]

„Was die Würdigung des Zeugenbeweises betrifft, so können die von der verletzten Person abgegebenen Erklärungen, nachdem sie auf ihre Glaubwürdigkeit streng geprüft worden sind, – auch alleine – als Beweis für die Verantwortung des Angeklagten dienen, ohne dass es unabdingbar ist, die Beweisregeln nach Art. 192 Abs. 3 und 4 StPO anzuwenden, welche externe Beweise verlangen. Dennoch, falls die verletzte Partei (sic!) sich auch als Zivilpartei eingelassen hat und daher auch Träger von wirtschaftlichen Forderungen ist, hat die Überprüfung der Glaubwürdigkeit strenger zu sein, indem auch in Erwägung gezogen werden soll, ob diese Erklärungen zusammen mit allen sonstigen Beweisumständen zu würdigen sind“ (vgl. Kass., 3.6.2004, Nr. 33162, rv. 229755).

[“As far as the assessment of witness testimony is concerned, the statements provided by the injured person, after a rigorous examination as to their credibility, may—even in isolation—serve as evidence of the responsibility of the accused, without it being indispensable to apply the rules of evidence under Art. 192 paras. 3 and 4 of the Code of Criminal Procedure, requiring additional evidence. Nevertheless, if the injured party has also joined as a civil party, and therefore is also a bearer of economic claims, the examination of credibility shall be stricter, in that it shall also take into consideration whether these statements should be considered together with all other circumstances of evidence” (cf. Supreme Court, 3.6.2004, no. 33162, rv. 229755).]

Im konkreten Fall scheint dies gegeben.

[In the case at hand, this appears to be the case.]

After locating these three approaches, I conducted a quantitative study on the frequency of their appearance, also taking into consideration cases where more than one approach was employed. This led to a total number of instances to be analysed that exceeded the number of judgments, since I added traces featuring multiple instances within the same judgment to the total number, making up a data set featuring 85 cases of bilingual traces.

While I consider all three approaches as providing bilingual traces, I make a distinction between collage and direct quotation, where the Italian text is inserted into a judgment, and translation, where this is not the case. Hence, I call the outcome of collage and direct quotation direct bilingual traces, whereas those resulting from translation are indirect bilingual traces. This is because, unlike the direct bilingual traces, indirect bilingual traces indicate engagement by the judge with the Italian text, that is, through a translation into German made by the judge herself which is inserted into the judgment. As such, it is not a direct trace, because not a single Italian word is transposed into the German judgment. However, there still is an indirect trace, as these translations are made in an ad hoc fashion by the judge and have a tendency to reproduce the phrasing and syntax of the source language, Italian, quite devotedly.

In addition, I looked at two additional aspects: first, whether there has been an increase of a specific approach in the last seven years (2015–2022), compared

to the first eight years (2006–2014); second, whether combinations between approaches were featured among all three approaches or one approach was used exclusively in an isolated manner. Analysing the latter, I moved away from my general approach of counting traces individually. In that, I calculated the joint appearance of different approaches within the same judgment as $n=1$, even in cases of several combinations appearing in the same judgment. This is because the analysis of the fact that combinations take place as such, and what kind of approaches are combined, could offer, I suggest, more significant insights than how many of these combinations can be observed within a single judgment.

5.2 Results

From this sample of 85 traces of bilingualism, 59% led to insertions of Italian text into German judgments, 30% of them being collages ($n=26$), and 29% direct quotations ($n=24$). The remaining 41% consists of translations ($n=35$). In other words, 59% of all traces are direct bilingual traces, while the remaining 41% consists of indirect bilingual traces. Whereas, looking at them separately, translations are the approach most frequently used, the other two approaches have increased over the last seven years, with 18 collages and 17 direct quotations (2015–2022) against 8 and 7 (2006–2014), respectively. Furthermore, combinations turned out to be common between collage and direct quotation, with 20% of the judgments examined ($n=11$) featuring it, while translation is exclusively used in an isolated manner.

6. Discussion

The findings illustrated above suggest that indirect bilingual traces are more common, but direct traces are clearly on the rise. One implication of this is that the need to refer to sources in a language different from the judgment seems to loosen up the urge to perpetuate the myth of judicial monolingualism. To be sure, while translations, and thus indirect bilingual traces, are still more frequent, leading to judgments that essentially incorporate the myth of judicial

monolingualism, alternative approaches have been recently challenging its dominant position.

Moreover, the fact that direct traces are, on numerous occasions, used jointly in the same judgment shows how, once a judge has committed to the idea of leaving bilingual traces in her judgment, there is no need for her to hide anything and she will use the different approaches as she sees fit. Conversely, once a reference is translated, the judgment will be strictly monolingual, and hence deemed incompatible with the insertion of fragments in the other language.

While all three approaches are quite prominently featured in the data under scrutiny, their use, individually or jointly, is not devoid of issues, especially with reference to language rights and legal certainty. The first approach, collage, presupposes that the addressee of the judgment has sufficient passive knowledge of the other language to understand the cited passage and that a brief summary or explanation of it will suffice to guarantee adequate understanding. This aspect is even more problematic when the explanation or summary is missing and the Italian paragraph is inserted with no clarification whatsoever, as is the case with the approach of direct quotation. While the assumption of sufficient passive knowledge of Italian, being the official language on national scale, among the inhabitants of South Tyrol could be justified in many cases, it is hazardous in at least two respects. Firstly, it contravenes the right to choose the language of the proceeding and the resulting judgment, which is independent from considerations as to somebody's (presumed) fluency in the other language. Secondly, and more importantly, it ignores the changed living reality of a globalized world, where people move around regions and states constantly, learning and speaking perhaps only one out of several official languages of a multilingual territory.

Limited to collage, an additional point needs to be raised. Even if one was to ignore the potential language issue, providing only a summary or brief explanation of the passage cited in another language is problematic in terms of legal certainty, as a potentially very nuanced and complex passage of legal reasoning is rendered in a shortened and simplified form, potentially altering or distorting its precise original meaning.

These issues are avoided, at least on the surface, when employing the third approach, translation. In fact, this guarantees the consistent use of only one language, chosen and therefore presumably known by the accused, as well as the truthful respect towards the formal denomination of the judgment's language as German. However, also in this case, two crucial concerns need to be raised. First, as mentioned above, this approach perseveres in the myth of judicial monolingualism. While leaving indirect traces of bilingualism, it reproduces references to resources clearly unavailable in the language of the judgment, pretending a linguistic coherence that does not exist. Secondly, it does not rely on an official translation, but is the result of a translation process carried out by the judge herself. This could not only lead to partially inaccurate and terminologically unsound translations, but also to inconsistent translations.²¹ While judges tend to stick to their own translation, they might disregard or not conform to the translation made by others, creating a phraseological and terminological incoherence that harms legal certainty. To be sure, there is an apparent consensus on certain passages repeatedly cited; the problem is clearly more tangible when it comes to new case law, where a new consensus needs to be found, potentially after a period of discrepancy.²²

Furthermore, even if a consensus is reached, this does not per se imply that the translation agreed upon is flawless or chosen for its merits. In fact, blindly following a consolidated translation impairs the capacity of adapting the translation to a more accurate terminology.

²¹ To mention just one example, a quite often-referenced judgment by the Italian Supreme Court is no. 33162 of 03.06.2004 on the evidentiary value of statements by the injured person not supported by additional evidence. There is a consensus on how to translate the ratio decidendi in this judgment into German, featured in three judgments of the Justice of the Peace of Bolzano. These judgments, being no. 4 of 10.01.2013, no. 32 of 20.02.2014, and 175 of 13.11.2017, feature slight inaccuracies. Firstly, *responsabilità dell'imputato* ('liability of the accused') is translated as *Verantwortung des Angeklagten* instead of the more appropriate *Verantwortlichkeit des Angeklagten*. Secondly, *persona offesa* ('injured person') is translated as *verletzte Partei* instead of *verletzte Person*.

²² Based on the judgments analysed for this research, this observation could seem hypothetical, as there is a consensus on the most commonly referenced passages. However, the issue is not irrelevant, as less common and new jurisprudence might alter the current consensus.

6.1 *Not all good things come by threes: Visualizing an alternative*

The three approaches employed thus far could, as I want to claim in this article, be used in a way that might both uphold language rights and guarantee terminological transparency; without falling neither prey to the myth of judicial monolingualism nor to the assumption that Italian is generally understood. This would entail translating the cited paragraph while adding the original passage in full as well. To nuance this point, the idea presented here could be conceptualised either as a combination of direct quotation and translation, or as an amplified and more transparent collage. On the one hand, this might avoid the issues resulting from paraphrasing the Italian judgment in German, as it is the case with collage. On the other hand, it would allow the reader to directly compare the original and the translation, unlike direct quotation, where no translation is provided at all, and unlike translation, where the original is not included in the judgment.

6.2 *Limitations*

The limitations of this article need to be acknowledged, which are at least threefold. Firstly, the undertaken analysis was limited to criminal cases, leaving out other branches of law Justices of the Peace have jurisdiction over, such as civil cases and opposition to administrative sanctions. While it is possible to assume that the approaches envisaged for criminal cases are employed in these other branches as well, it remains unclear whether the frequency and partial combination of the use of these approaches is similar to criminal cases or not. Since criminal cases make up only about 11% of the jurisprudence by Justices of the Peace in the timeframe under investigation—120 out of a total of 1084 cases—, a major piece of case law is not included in this study.²³

Secondly, the results and discussion presented here cannot necessarily be extended to the handling of the issues at hand by courts in South Tyrol as a

²³ Again, the total number of cases is based on the data available on June 7th, 2022.

whole. While it is very likely that higher courts, being the Tribunal of first instance and the Court of Appeal of Bolzano, have found similar approaches to those examined for this study, the percentages featured in the court practice of Justices of the Peace could vary considerably the higher one gets on the appeal stages. Lastly, the present analysis has not accounted for the reasons behind choosing one or several approaches over others in a specific judgment. In other words, while it has become clear that the same Office of the Justice of the Peace is not devoted to a single approach in all its judgments and, to the contrary, might even use different approaches within a single judgment, the particular reasons or circumstances leading to this choice, also in reference to specific courts, remain in need of further investigation. For instance, the analysis does not cover the aspect of how a specific audience, such as judges from higher courts, might influence the approaches employed in a specific judgment. Judges might use different approaches when they find it likely that their judgment will be appealed as compared to when this option appears unlikely.

7. Conclusion

What are the traces this article aims to leave, then? Firstly, it shows in how far what has been referred to as the myth of judicial monolingualism, being the idea of a monolingual legal reasoning based on resources solely in the language of the proceeding, is problematic. The reason for this is that it creates a fictional idea of unity and cohesion, in both monolingual and multilingual jurisdictions. This myth is unsettled in multilingual jurisdictions when there is a disparity of resources among different languages. To highlight this, three approaches employed in judicial practice when referring to apex court judgments available only in a specific language in judgments in a second language are discussed.

While translation is the most popular approach, holding on to the myth of judicial monolingualism, the use of the other two approaches, collage

and direct quotation, is increasing in recent years, which shows willingness to overcome the myth. Yet, none of these approaches is free from issues in terms of language rights and legal certainty. Collage and direct quotation are problematic concerning language rights, as these approaches assume that an only partial translation (collage) or no translation at all (direct quotation) is required for the person at trial to understand.

Moreover, while the mere insertion of the Italian passage with no explanation at all seems inadequate as such, a summary or explanation of a highly specific passage bears the risk of distorting its meaning. Translation, on the other hand, could lead to inconsistencies between translations, as the translation is generally not an official and standardized one, but rather made by individual judges. Besides, even where a particular translation is used consistently, there is no guarantee, as has been mentioned, that this translation is free from inaccuracies.

Therefore, an alternative approach consisting of a translation accompanied by the original passage cited should be considered. This approach might increase both transparency and comprehensibility of judgments encompassing bilingual traces. This alternative aims to highlight two potential improvements in drafting judgments. Firstly, the judgment would be immediately understandable to all parties concerned. Secondly, the translation would be under more severe scrutiny, as the original text would be right next to the translation, instead of a simple case docket number.

Further research should not only expand on studies covering the limitations of the present research, but also observe whether, and to what extent, the three-approach model elaborated here is useful when analysing analogous cases in different jurisdictions. These cases encompass languages that are co-official at federal, national, or subnational level, featuring a significant imbalance in terms of availability of legal resources among each other. Interesting jurisdictions that might be compared are Puerto Rico (judgments in Spanish citing case law available only in English) or Hong Kong (judgments in Cantonese citing case law available only in English), among many other potentially trace-bearing judicial settings.

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El derecho a recibir información y el derecho a comunicar: claves de la política de traducción e interpretación en los centros penitenciarios de Rumanía / *The right to receive information and the right to communicate: Keys to the Romanian translation and interpreting policy in prisons*

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Para citar este artículo:

Vitalaru, Bianca. 2023. «El derecho a recibir información y el derecho a comunicar: claves de la política de traducción e interpretación en los centros penitenciarios de Rumanía». En «Intersecciones (y conflictos) entre ideologías y derechos lingüísticos», edición de Rafael Castelló-Cogollos & Esther Monzó-Nebot. Número monográfico, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 119–155.

<https://doi.org/10.7203/Just.2.25080>.

Fecha de recepción: 17/08/2022 *Fecha de aceptación:* 11/07/2023



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El derecho a recibir información y el derecho a comunicar: claves de la política de traducción e interpretación en los centros penitenciarios de Rumanía

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Resumen

Este artículo analiza la legislación penitenciaria de Rumanía para describir el elemento normativo de su política de traducción e interpretación (T&I) en lo referente a las personas alóglotas. Para ello, se aplica una versión modificada del modelo de Martínez-Gómez (2018) para la clasificación de sistemas penitenciarios en función de la madurez de sus políticas lingüísticas. Este modelo destaca las disposiciones relativas a la T&I para hacer efectivos los derechos de base lingüística. Nuestro artículo añade una distinción para determinar si la legislación prevé los mismos derechos para las personas alóglotas en situaciones informativas, donde reciben información, y en situaciones comunicativas, donde pueden expresarse y ser escuchadas. Se añade, además, una comparación con los instrumentos internacionales en la materia para determinar cuántas situaciones discursivas reconocidas en aquellos se han contemplado en la legislación pertinente. Los resultados muestran que el sistema penitenciario rumano prevé pocas medidas específicas de T&I como parte de los derechos lingüísticos de la población reclusa alóglota y presenta un nivel intermedio de transposición en relación con las situaciones previstas en instrumentos internacionales. El estudio observa desequilibrios entre las medidas adoptadas para el disfrute de los derechos a la comunicación y a la información, y abre el debate sobre en qué grado la legislación silencia a la población reclusa alóglota.

Palabras clave: Legislación penitenciaria, política de traducción e interpretación, derecho a la información, derecho a la comunicación, Rumanía

Abstract

This article analyzes Romanian prison legislation to describe the normative element of its translation and interpreting (T&I) policy regarding prisoners who do not speak Romanian. A modified version of Martínez-Gómez's model for the classification of prison systems according to the maturity of their language policies (2018) is applied. In Martínez-Gómez's model, T&I provisions are foregrounded as instruments to safeguard language-based rights. My study adds a distinction to determine whether the legislation establishes the same rights for foreign prisoners in informational situations, where prisoners receive information, and in communicative situations, where they are able to express themselves and be heard. Furthermore, we add a comparison with relevant international instruments to determine how many of the discursive situations recognized in those instruments have been included in the Romanian legislation. The results show that the Romanian prison system provides for few specific T&I measures as part of the linguistic rights of prisoners who do not speak Romanian. Moreover, an intermediate level of transposition is observed considering the situations related to life in prison established in international instruments. The study reveals imbalances between the measures adopted for the enjoyment of the rights to communication and information and opens the debate on the extent to which the legislation silences prisoners who do not speak Romanian.

Keywords: Prison legislation, translation and interpreting policy, right to information, right to communication, Romania

1. Introducción

Como en cualquier otro ámbito de la traducción y la interpretación en los servicios públicos (TISP), la traducción y la interpretación (T&I) en los centros penitenciarios (CP) es una actividad necesaria para facilitar la comunicación de las personas alóglotas que no dominan el idioma del país donde se ubica el

CP. Algunos ejemplos de situaciones que implican la necesidad de comunicación de estas personas son las decisiones sobre sanciones, las visitas médicas, las reuniones con letradas y letrados, las sesiones de terapia, las actividades formativas (Baixauli 2010, 26), así como las actividades de ocio y tiempo libre. En estos casos, puede ser necesario proporcionar la traducción de información a las personas reclusas alóglotas. No obstante, la traducción de documentos no es suficiente ni para asegurar su comprensión (Cámara Arroyo 2017, 154) ni para permitirles intervenir comunicando sus dudas, problemas o aportaciones. Por ello, en este artículo, se consideran por separado estas dos necesidades comunicativas que comparten una base lingüística y una necesidad de T&I para personas alóglotas: por un lado, el derecho a la información, que garantiza que la persona reclusa alóglota recibe en su idioma mensajes importantes para el desarrollo de su vida en el centro penitenciario (CP); y, por otro, el derecho a la comunicación, por el que esa persona puede también expresarse e interactuar con su entorno en su idioma de referencia. Además de estudiar las referencias a estos dos derechos, y siguiendo el análisis de Martínez-Gómez (2018), se observa en qué momentos se prevé explícitamente el derecho a la T&I, por cuanto este se considera instrumental en el disfrute de derechos por parte de personas alóglotas (Mowbray 2017).

Estos tres pilares, el derecho a la información, el derecho a la comunicación y la disposición de T&I como medida específica para la población alóglota, se adoptan como temas de un análisis de contenido de la legislación de Rumanía, a fin de realizar un diagnóstico de la situación del componente normativo de su política lingüística (Spolsky 2004, 4) con referencia particular a los CP. La política lingüística de Rumanía contempla el pluralismo lingüístico y regula el uso de las lenguas minoritarias en varias áreas, entre las que se incluyen la comunicación con los servicios públicos y administrativos, y algunos procedimientos judiciales (Horváth 2009, 32). Además, en Rumanía se regula el uso de intérpretes autorizadas y autorizados en el ámbito jurídico y judicial para facilitar la comunicación con población alóglota (Legea 178/[1997]2016, Parlamentul [1997]2016). Sin embargo, el país cuenta con una población reclusa extranjera inferior al 2 % (World Prison Brief 2022) y, a causa de ese bajo porcentaje, su

política lingüística en CP ha quedado excluida de gran parte de los análisis realizados hasta el momento, como el de Martínez-Gómez (2018), que sirve de base para el presente artículo. Esta autora analiza en dos estudios (2008, centrado en países europeos, y 2018, de alcance más amplio) la legislación penitenciaria de diferentes países; en el caso de Inglaterra y Gales y California (2018), la coteja con la implementación de medidas en la práctica. En el mismo estudio de 2018, incluye una clasificación de cincuenta sistemas penitenciarios de cuarenta países según el grado de exhaustividad de sus políticas lingüísticas y disposición de medidas de T&I (2018, 152-153). Como resultado, su estudio ofrece una taxonomía de enfoques que se utilizan en los CP para regular el acceso a la lengua (2018, 152).

Este artículo incorpora Rumanía a las descripciones disponibles (apartado 5) a la vez que perfila el análisis inicial con una división entre el derecho a la información y el derecho a la comunicación (detallados en los apartados 3.1 y 3.2) para observar en qué grado y con qué medidas se da voz a la población reclusa alóglota¹ en el sistema penitenciario de Rumanía. Para ello, se revisa la presencia en la legislación de tres temas: derecho a la información, derecho a la comunicación y disposición de T&I. En un primer lugar, se analiza su presencia en la legislación internacional y, posteriormente, en la normativa específica de Rumanía, a la que se aplica un análisis de contenido (Mayring 2014, 18-22). Además, se compara el número de situaciones discursivas reguladas en Rumanía con las previstas en la legislación internacional. En el presente trabajo, adoptamos el término *situación discursiva* (SD) para referirnos a una situación en que intervienen dos o más participantes y en la que al menos una parte enuncia un mensaje.

En definitiva, este artículo trata el componente normativo de la política de T&I, entendido como el conjunto de normas que regulan el acceso de las personas a los servicios públicos o su exclusión de ellos. Entendemos que esta política refleja una concepción de los derechos de la población reclusa a la vez que tiene un papel decisivo en cuanto a su capacidad de comunicarse con las

¹ No se analizarán las referencias concretas a las minorías étnicas de Rumanía.

autoridades (Meylaerts 2011, 165). Su análisis nos permite observar la relación que las instituciones, en este caso, penitenciarias, establecen con la población alóglota a la que deben servir, bien como sujeto-sujeto, que fomenta una relación de base democrática, o bien como sujeto-objeto, que perpetúa un desequilibrio entre el Estado y la ciudadanía (Benedito 2010, 9-19).

2. Información, comunicación y T&I en instrumentos internacionales

En este apartado, tratamos cuatro derechos en función de los cuales estructuramos, en los apartados 3 y 5, las situaciones discursivas vinculadas: el derecho a la información de la persona detenida o privada de libertad, su derecho a la comunicación, el derecho a la T&I para la información y el derecho a la T&I para la comunicación. Diferenciamos entre situaciones discursivas informativas o comunicativas en función de si los posibles objetivos del acto comunicativo son la transmisión de información o un proceso de intercambio entre la persona alóglota y otra parte. La comunicación como proceso y la transmisión de información son conceptos relacionados cuyo significado suele generar confusión (Navarro Lores & Pémberton Beltrán 2012). Aunque tengan características similares y se solape su significado en algunas situaciones, la comunicación consiste en un proceso más complejo que implica retroalimentación y una interacción entre los participantes (Barker 2001, 19). Por lo tanto, entendemos las situaciones informativas como situaciones que implican un papel pasivo de la persona usuaria como receptora de información y las situaciones comunicativas como las que implican un proceso bilateral de intercambio de información en el que la persona alóglota actúa como participante activa en el proceso (por ejemplo, hace preguntas, solicita o habla).

Estos derechos se prevén en diferentes instrumentos internacionales. Estudiamos los textos vinculantes y la Declaración Universal de Derechos Lingüísticos (Comité de Seguimiento de la Declaración Universal de Derechos Lingüísticos 1998, 15), que constituye derecho indicativo o no vinculante. Para el análisis de los instrumentos legales del derecho comunitario, utilizamos su versión en español.

2.1. El derecho a la información y a la comunicación como derechos de base lingüística en condiciones de privación de libertad

Los derechos a la información y a la comunicación son dos derechos fundamentales de base lingüística. El derecho a la información se prevé en la Declaración Universal de Derechos Humanos (DUDH), adoptado por la Asamblea General de Naciones Unidas (AGNU 1948, art. 9) como parte del derecho a la libertad de opinión y expresión. En el contexto más específico de la detención o privación de libertad, este derecho se prevé en varios instrumentos internacionales. En el ámbito internacional, se estipula en el Pacto Internacional de Derechos Civiles y Políticos (AGNU 1966, art. 9.2) y el Conjunto de Principios para la Protección de Todas las Personas Sometidas a Cualquier Forma de Detención o Prisión (AGNU 1988, principio 14). En el ámbito comunitario, este derecho se precisa de forma detallada en la Directiva 2012/13/UE del Parlamento Europeo y del Consejo, de 22 de mayo de 2012, que lo incluye en su nombre («relativa al derecho a la información en los procesos penales») y en dos artículos: «Derecho a la información sobre los derechos» (art. 3) y «Derecho a recibir información sobre la acusación» (art. 6). También lo contempla la Directiva 2012/29/UE del Parlamento Europeo y del Consejo, de 25 de octubre de 2012, por la que se establecen normas mínimas sobre los derechos, el apoyo y la protección de las víctimas de delitos: «Derecho a recibir información desde el primer contacto con una autoridad competente» (art. 4). Este derecho complementa otro derecho, a la comunicación: «Derecho a entender y a ser entendido» (art. 3) (Parlamento Europeo y Consejo de la Unión Europea 2012a; 2012b).

Aunque el segundo derecho, el derecho a la comunicación, no se formule utilizando este sintagma en los instrumentos internacionales, la interpretación de determinadas disposiciones como tal no se cuestiona a nivel internacional (McEwin & Santow 2018, 1-2; McLeod 2018, 3; Corredoira, Bel Mallen & Cetina Presuel 2021, parte I y II). En ese ámbito, los derechos de comunicación se han estudiado desde cuatro perspectivas: de todas las personas; de las personas con discapacidades comunicativas; de las niñas y los niños, y los relacionados con el uso de determinadas lenguas en la comunicación (McLeod 2018, 3).

El derecho a la comunicación podría ser considerado, en primer lugar, un derecho relacionado con la libertad de opinión y de expresión expresado en la DUDH (AGNU 1948, art. 9), que trasciende la mera transmisión de información: «no ser molestado a causa de sus opiniones, [...] investigar y recibir informaciones y opiniones, y [...] difundirlas, sin limitación de fronteras, por cualquier medio de expresión» (AGNU 1948, art. 19). En segundo lugar, puede ser considerado parte del derecho al uso de la lengua previsto en la misma DUDH, en relación con dos derechos lingüísticos: el «uso de la lengua en privado y en público» (derecho individual) y «ser atendidos en su lengua en los organismos oficiales y en las relaciones socioeconómicas» (como grupo lingüístico) (Comité de Seguimiento de la Declaración Universal de Derechos Lingüísticos 1998, 15). En tercer lugar, puede considerarse dentro del derecho a un proceso equitativo previsto por el Convenio para la Protección de los Derechos Humanos y de las Libertades Fundamentales (CEDH) (Tribunal Europeo de Derechos Humanos 1950, art. 6), en relación con la preparación de la defensa, la defensa propia o la asistencia letrada y la interrogación de testigos (art. 6.3b, c, d).

En suma, el derecho a la comunicación trasciende la libertad de expresión, opinión y lenguaje, ya que permite el ejercicio de otros derechos humanos como el derecho a la educación, al trabajo, la seguridad social, a la propiedad, a llevar un nivel de vida adecuado para su bienestar y el de su familia, a la autodeterminación y a la libertad religiosa, entre otros (AGNU 1948, arts. 23-27). Así pues, el derecho a la comunicación sería un derecho instrumental, como también se ha descrito la lengua en el disfrute de estos derechos (Mowbray 2017, 36).

2.2. El derecho a la T&I para la información y para la comunicación

El derecho a la T&I se establece en varios instrumentos internacionales para el caso de los procesos penales, que pueden derivar en el internamiento en CP. El derecho a contar con la asistencia de intérprete como garantía procesal para las personas alóglotas se menciona en el artículo 14.3f del Pacto Internacional de Derechos Civiles y Políticos (AGNU 1966), en el principio 14 del Conjunto de Principios para la Protección de Todas las Personas Sometidas a Cualquier

Forma de Detención o Prisión (AGNU 1988) y en el artículo 6.3.e del CEDH. Asimismo, este derecho se prevé claramente en tres directivas europeas: la Directiva 2010/64/UE (arts. 2 y 3), la Directiva 2012/29/UE (art. 7) y la Directiva 2012/13/UE (art. 3.1.d) del Parlamento Europeo y Consejo de la Unión Europea (2010; 2012a; 2012b).

Es fundamental tener en cuenta que el derecho a la T&I se prevé con dos objetivos diferentes en las directivas señaladas: para informar (situaciones informativas) o para permitir la comunicación de la persona sospechosa o acusada (situaciones comunicativas). En este sentido, observamos una distinción entre un derecho a la traducción en el caso de las situaciones informativas (que se realizan por escrito) y un derecho a la interpretación en el caso de las situaciones comunicativas (orales). En concreto, el derecho a la traducción (para informar) se establece en varias situaciones informativas. En este sentido, la Directiva 2010/64/UE prevé el derecho de la persona sospechosa o acusada de haber cometido una infracción penal a la traducción escrita de los documentos que son esenciales para garantizar su derecho a la defensa y «salvaguardar la equidad del proceso» (art. 3). La traducción debe garantizar «en particular que el sospechoso o acusado tiene conocimiento de los cargos que se le imputan» (una situación informativa) antes de estar «en condiciones de ejercer el derecho a la defensa» (art. 9). De la misma manera, la Directiva 2012/29/UE prevé «traducciones gratuitas, en una lengua que entiendan, de la información esencial para que ejerzan sus derechos en el proceso penal, en la medida en que dicha información se facilite a las víctimas» (art. 7.3). Por último, la Directiva 2012/13/UE menciona la conformidad con las normas establecidas en la Directiva 2010/64/UE cuando se proporcione información (considerando 25); este derecho se prevé en las siguientes situaciones: «derecho a la traducción de, como mínimo, los pasajes pertinentes de los documentos esenciales, incluida toda orden de un juez que permita su detención o privación de libertad, toda acusación o auto de procesamiento y toda sentencia» (Parlamento Europeo y Consejo de la Unión Europea 2012a, anexo I, apartado C del modelo indicativo de la declaración de derechos).

En cambio, el derecho a la interpretación (para comunicarse) se prevé para varias situaciones comunicativas de las mismas directivas: «en el transcurso del proceso penal ante las autoridades de la investigación y judiciales, incluido

durante el interrogatorio policial, en todas las vistas judiciales y las audiencias intermedias que sean necesarias» (Parlamento Europeo y Consejo de la Unión Europea 2010, art. 2). En otro ejemplo:

[...] al menos durante las entrevistas o las tomas de declaración en los procesos penales, ante las autoridades de instrucción y judiciales, incluso durante los interrogatorios policiales, e interpretación para su participación activa en las vistas orales del juicio y cualquier audiencia interlocutoria. (Parlamento Europeo y Consejo de la Unión Europea 2012b, art. 7)

La distinción entre la información y la comunicación como objetivos de la traducción o de la interpretación es reforzada por la mención expresa que se hace a la «interpretación para [la] participación activa» de la persona sospechosa o acusada en las vistas orales y las audiencias interlocutorias en el artículo citado, ya que indica que también hay una participación no activa para la que no sería necesaria la intervención de intérprete.

Por último, el hecho de que la interpretación es el instrumento establecido para la comunicación se confirma en el modelo indicativo de la declaración de derechos (derecho C: Interpretación y traducción): «El intérprete puede ayudarle a hablar con su abogado» (Parlamento Europeo y Consejo de la Unión Europea 2012b, anexo I).

3. El derecho a la información, a la comunicación y a la T&I en las recomendaciones internacionales sobre el contexto penitenciario

Una vez se interna a la persona alóglota en un CP, esta se convierte en reclusa y le son aplicables otros instrumentos internacionales. Para determinar las situaciones de información, comunicación y T&I previstas en el derecho internacional, utilizamos tres recomendaciones sobre el tratamiento de la población reclusa (Valero-Garcés 2020, 415; Martínez-Gómez 2018, 156-157): Recomendación CM/Rec (2012)¹² del Comité de Ministros del Consejo de Europa a los Estados miembros sobre los reclusos extranjeros (Comité de Ministros del Consejo

de Europa 2012, reglas 8, 21.3, 21.5 y 31.4); Reglas Mínimas de las Naciones Unidas para el Tratamiento de los Reclusos (las Reglas Nelson Mandela) (AGNU [1955] 2015) y Recomendación Rec (2006) 2-rev del Comité de Ministros del Consejo de Europa a los Estados miembros sobre las normas penitenciarias europeas ([2006] 2020). Se trata de textos no vinculantes, aunque «pueden considerarse declaratorios de unos objetivos y principios de amplia aceptación en la comunidad internacional» (Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos 2002, 13).

Para la recopilación de información utilizamos los textos oficiales, en inglés o en español. Para referirnos a los instrumentos, usamos el texto auténtico en español del tratado registrado en Naciones Unidas cuando lo hay. Al no existir una traducción oficial al español en el caso de las recomendaciones del Consejo de Europa (Recomendación CM/Rec (2012)¹² y Recomendación Rec (2006)²), hemos utilizado el texto en inglés. El nombre utilizado para estos últimos es el que se cita por la Resolución del Parlamento Europeo [...] sobre condiciones y sistemas penitenciarios (Parlamento Europeo 2017).²

3.1 El derecho a la información en las recomendaciones internacionales sobre el contexto penitenciario

En las recomendaciones señaladas en la introducción a este apartado se hace referencia al derecho a la información a través de varios principios o reglas. Sigue en este apartado una relación de las situaciones discursivas informativas (SDI) para las que se menciona el derecho a la información de la persona reclusa alóglota. También se señalan las SDI en las que se estipula el uso de intérprete (SDII):

- SDI.1. Información sobre la normativa aplicable e información necesaria para la adaptación a la vida en prisión (Comité de Ministros del Consejo de Europa 2012, 15.1, 21.1; 2015, 54, 54.3, 55.1 [SDII.1] y 55.3; 2020: 30.1,

² La traducción de los fragmentos citados de estas dos recomendaciones es de la autora.

37.1, 37.2 y 37.4). Esta categoría incluye información sobre los derechos y deberes, el régimen penitenciario y el reglamento interno, las normas y procedimientos para formular peticiones y quejas, así como el derecho al asesoramiento y la asistencia jurídica.

- SDI.2. Información sobre las posibilidades de traslado (Comité de Ministros del Consejo de Europa 2012, 15.3; 2020, 37.7).
- SDI.3. Información sobre las acusaciones en casos de faltas disciplinarias (AGNU 2015, 41.2; Comité de Ministros del Consejo de Europa 2020, 59.a y 59.e) (SDII.2).

3.2. El derecho a la comunicación en las recomendaciones internacionales sobre el contexto penitenciario

La lectura de las mismas tres recomendaciones referidas en la introducción a este apartado muestra que en ninguna de estas recomendaciones se hace referencia específica o explícita a un *derecho a la comunicación* o a un principio sobre la *comunicación*. En las recomendaciones internacionales referidas sobre el contexto penitenciario, el derecho a la comunicación aparece implícito y se solapa a veces con el derecho a la información, o no parece que la legislación haya tenido en cuenta ninguna diferenciación de este tipo. Sin embargo, en las mismas recomendaciones se hace referencia a diferentes SD que implican un proceso de comunicación, es decir, situaciones discursivas comunicativas (SDC) en las que es necesario que la persona reclusa adopte un papel activo (hablar, solicitar) para el ejercicio de sus derechos. Además, para las cuatro últimas situaciones de las que se refieren a continuación, se estipula la intervención de intérprete (SDCI) como medida para facilitar el acceso de la persona reclusa alóglota a la lengua, es decir, para facilitar la comunicación. De hecho, para las seis situaciones (SDC) enumeradas, el derecho a la comunicación de la persona reclusa alóglota se sobreentiende:

- SDC.1. Informar o solicitar que se informe sobre su encarcelamiento a su familia, representantes consulares, asesoras/es jurídicas/os, y

otras organizaciones y personas competentes que puedan ayudarlas (Comité de Ministros del Consejo de Europa 2012, 15.2; AGNU 2015, 62.1; Comité de Ministros del Consejo de Europa 2020, 37.1).

- SDC.2. Formular peticiones o quejas (AGNU 2015, 56.1, 56.2, 56.3).
- SDC.3 y SDCI.1. Comunicarse con su asesor/a jurídico/a o asistencia y asesoramiento jurídico (Comité de Ministros del Consejo de Europa 2012, 21.3; AGNU 2015, 61.2).
- SDC.4 y SDCI.2. Comunicarse con las autoridades penitenciarias en general o en la audiencia disciplinaria (Comité de Ministros del Consejo de Europa 2012, 21.5; AGNU 2015, 41.3; Comité de Ministros del Consejo de Europa 2020, 59).
- SDC.5 y SDCI.3. Asistencia sanitaria (Comité de Ministros del Consejo de Europa 2012, 31.4).
- SDC.6 y SDCI.4. Situaciones generales no especificadas según las necesidades lingüísticas de las minorías étnicas o lingüísticas en general (Comité de Ministros del Consejo de Europa 2012, 8; 2020, 38.3) o según la necesidad (AGNU 2015, 80.2).

Para las últimas cuatro situaciones de esta lista se estipula la intervención de intérprete (SDCI) como medida para facilitar el acceso de la persona reclusa alóglota a la lengua, es decir, para facilitar la comunicación.

3.3. Situaciones en las que se estipula la intervención de intérprete en situaciones informativas y comunicativas en las recomendaciones internacionales sobre el contexto penitenciario

Como parte del derecho a la no discriminación previsto en la DUDH (arts. 2, 7, 23, 25, 26 y 27), los Estados deben proteger el derecho a la comunicación de la población extranjera, aun en situaciones de privación de libertad (Valero Garcés 2020, 415). Esa protección pasa necesariamente por la T&I.

La necesidad de la interpretación se prevé en una serie de recomendaciones internacionales en referencia a la necesidad de información o de facilitar la comunicación:

- Conjunto de principios para la protección de todas las personas sometidas a cualquier forma de detención o prisión (AGNU 1988, principio 14);
- Reglas mínimas de las Naciones Unidas para el tratamiento de los reclusos (las Reglas Nelson Mandela) (AGNU [1955]) 2015,³ reglas 41.3, 55.1, 61.2 y 80.2);
- Recomendación CM/Rec (2012)12 del Comité de Ministros del Consejo de Europa a los Estados miembros sobre los reclusos extranjeros (Comité de Ministros del Consejo de Europa 2012, reglas 8, 21.3, 21.5 y 31.4);
- Recomendación Rec (2006)2-rev del Comité de Ministros a los Estados miembros sobre las normas penitenciarias europeas (Comité de Ministros del Consejo de Europa [2006] 2020,⁴ principios 38.3 y 59). Esta última tiene en cuenta las Reglas mínimas de las Naciones Unidas para el tratamiento de los reclusos (AGNU 2015) y las Reglas de las Naciones Unidas para el tratamiento de las reclusas y medidas no privativas de la libertad para las mujeres delincuentes (las Reglas de Bangkok) (2010).

En estos instrumentos, destacan las referencias a «intérprete competente» de las Reglas Mínimas de las Naciones Unidas para el tratamiento de los reclusos (AGNU 2015, reglas 41.3 y 61.2) y de la Recomendación Rec (2006)2-rev (Comité de Ministros del Consejo de Europa 2020, principio 38.3), así como la referencia en esta última (principio 38.3) al material traducido a la variedad de lenguas de un determinado CP (principio 38.3).

Las SD relacionadas con la vida en el CP para las que las mismas recomendaciones referidas anteriormente mencionan a intérpretes son variadas: información al ingreso en el CP, las medidas disciplinarias, el asesoramiento y asistencia jurídica, la asistencia sanitaria y otras situaciones generales no especificadas para las que se menciona el uso de intérpretes teniendo en cuenta las necesidades lingüísticas de las minorías étnicas o lingüísticas en general (Comité de

³ Para las citas e ideas representativas se utilizará el año de la actualización como referencia.

⁴ Véase la nota 3.

Ministros del Consejo de Europa 2012, 8; 2020, 38.3) o según la necesidad (AGNU 2015, 80.2).

Destaca la referencia al uso de profesionales, cuya actividad se relaciona con la comunicación. En seis de los casos se mencionan características que implican el uso de profesionales, como «respetar la confidencialidad médica» (Comité de Ministros del Consejo de Europa 2012, 31.4), «intérprete competente» (Comité de Ministros del Consejo de Europa 2020, 38.3), «intérprete calificado»⁵ (AGNU 2015, 80.2, 61.2 y 41.3) o «servicios de interpretación» (AGNU 2015, 55.1). Se menciona, además, la obligación de «prestar atención a todos los aspectos de la comunicación» en los casos de asistencia sanitaria (Comité de Ministros del Consejo de Europa 2012, 31.4), lo que muestra que se comprende que la comunicación implica más que la transmisión de información. La referencia a las «instalaciones de interpretación y traducción» (2012, 8) también sugiere, si no la posibilidad de unos servicios profesionales, una situación más específica. Por último, en uno de los casos también se indica el material informativo en otras lenguas del CP (Comité de Ministros del Consejo de Europa 2020, 38.3).

En general, en las Reglas Nelson Mandela y la Recomendación Rec (2006)2-rev, la tendencia es establecer una norma general de uso de intérprete competente de modo que esta norma sea aplicable según la necesidad: «Se emplearán los servicios de un intérprete calificado cada vez que sea necesario» (AGNU 2015, 80.2) y «Las necesidades lingüísticas deben satisfacerse utilizando intérpretes competentes y proporcionando material escrito en la variedad de lenguas utilizadas en un centro penitenciario concreto» (Comité de Ministros del Consejo de Europa 2020, 38.3).

Esta revisión de los preceptos no vinculantes en relación con los derechos (información y comunicación) y las medidas estudiadas (T&I) nos sirven de marco en términos cuantitativos y cualitativos para evaluar la situación de Rumanía. Antes de analizarla, comentamos la metodología seguida en el siguiente apartado.

⁵ En el original en inglés se utiliza «competent interpreter».

4. Metodología

La metodología de este estudio se basa en un análisis de contenido (Mayring 2014) en el que se detectaron los temas buscados en la legislación rumana. Para ello, se construyó un corpus con los textos legislativos relevantes de Rumanía. Posteriormente, se analizaron los textos para codificar la presencia de los derechos y las medidas buscadas mediante categorías deductivas. Para sistematizar los resultados, se utilizó el modelo de Martínez-Gómez (2018), al que se añadieron algunas aclaraciones o modificaciones y que se amplió tal como se detalla en los apartados 4.2 y 4.3.

4.1. Descripción del corpus

El corpus contiene la siguiente legislación penitenciaria de Rumanía, que prevé, regula y desarrolla aspectos relacionados con la ejecución de las penas y de las medidas de privación de libertad:

- la Ley 254/2013⁶ sobre la ejecución de las penas y de las medidas de privación de libertad dispuestas por los órganos judiciales durante el proceso penal (en adelante, Legea 254/2013)⁷ (Parlamentul 2013),⁸ y
- el Reglamento de 10 de marzo de 2016 por el que se desarrolla la Ley 254/2013 sobre la ejecución de las penas y de las medidas de privación de libertad dictadas por los órganos judiciales durante el proceso penal (en adelante, Regulament 2016)⁹ (Guvernul 2016).

⁶ Los tipos de CP a los que se hace referencia en esta ley son los CP ordinarios y CP especiales (para jóvenes, mujeres y CP-hospitales); se incluyen las secciones especiales de detención preventiva y los centros educativos y de detención para menores y jóvenes (arts. 11, 12 y 189).

⁷ Legea nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal.

⁸ Algunos de sus artículos fueron objeto de modificaciones mediante leyes de 2017, 2019, 2021 y una ordenanza de urgencia en 2016.

⁹ Regulament din 10 martie 2016 de aplicare a Legii nr. 254/2013 privind executarea pedepselor

4.2. Modelo de análisis

El modelo de base que utilizamos para definir la política de traducción de Rumanía es el estudio de Martínez-Gómez (2018). Dado que el modelo original se construye con un enfoque inductivo, usamos las características que la autora incluye como conclusiones a su estudio. En concreto, seguimos la propuesta de clasificación resultante del estudio de Martínez-Gómez (2018, 158) como orientación para nuestro análisis. Esta propuesta clasifica a los países en tres grupos en función del número de situaciones comunicativas para las que se prevé un derecho a la comunicación o a la información (una distinción que no recoge esa clasificación):

- Países con una regulación mínima (entre ninguna y dos situaciones reguladas);
- Países con una regulación limitada (entre dos y cinco situaciones reguladas), y
- Países con una regulación más amplia (seis o más situaciones reguladas).

Asimismo, pese a que no altera su clasificación, Martínez-Gómez estudia otros aspectos de la formulación de los derechos que también tenemos en cuenta en el presente trabajo:

- La existencia de medidas específicas para el recurso a la T&I en la normativa específica para CP, como un «uso más amplio de intérpretes» (2018, 161).
- La precisión del lenguaje utilizado para reconocer los derechos. En este caso, Martínez-Gómez señala que la precisión del lenguaje aumenta a la par que el número de situaciones reguladas por los países. Los del primer y segundo nivel, utilizan expresiones poco precisas, generales o con referencias vagas a intérpretes y a su actuación, como «lenguaje comprensible», «asistencia» o «alguien que pueda ayudar» (2018, 158), mientras que la precisión aumenta en el caso del grupo 3 (2018, 160).
- La existencia de instrumentos específicos que regulen exclusivamente la actividad de intérpretes (con referencia explícita a su actividad profesional

și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal.

y sus tarifas) y la prescripción de principios éticos como la imparcialidad y la confidencialidad. Se contempla aquí la disposición de varias medidas similares además del uso de intérpretes profesionales, como el recurso a intérpretes no profesionales y servicios de interpretación remota o telefónica.

Cabe señalar que añadimos dos modificaciones. En primer lugar, si en el modelo de base todas las referencias a los derechos de base lingüística se contabilizaron de manera conjunta para determinar la regulación del acceso a la lengua, en esta investigación diferenciamos entre los derechos a la información y a la comunicación. En segundo lugar, definimos el sintagma «situación comunicativa» que se utiliza en el modelo original de Martínez-Gómez (2018, 161) y concretamos su aplicación a diferentes situaciones ya que en su estudio no se define y se aplica de manera general. En nuestro trabajo contabilizamos tanto las disposiciones como la variedad y el número de situaciones relacionadas con la vida en CP. Además, tenemos en cuenta que varias disposiciones pueden hacer referencia a la misma situación.

En síntesis, para la clasificación de Rumanía según este modelo, agrupamos las disposiciones sobre los derechos lingüísticos previstos en la legislación en dos categorías de acuerdo con los dos tipos de derechos de base lingüística (a la información o a la comunicación), así como las referencias a servicios de T&I, y estudiamos también la precisión del lenguaje. Para ello, hemos seguido tres fases:

- a) En primer lugar, partimos de la extracción de las situaciones en las que se hace referencia al derecho de la persona reclusa alóglota a la información, comunicación y las medidas (de T&I u otra índole, si las hubiera) en las recomendaciones internacionales especificadas y analizadas en el apartado 3: Recomendación CM/Rec (2012)12 (Comité de Ministros del Consejo de Europa 2012), Reglas Nelson Mandela (AGNU [1955]) 2015 y Recomendación Rec (2006)2-rev (Comité de Ministros del Consejo de Europa [2006] 2020). La extracción de situaciones se basó en nuestra lectura de las recomendaciones y en la detección de situaciones en las que se menciona la información o la comunicación y sus posibles sinónimos.
- b) A continuación, elaboramos una tabla con cuatro ejes que utilizamos para comparar las recomendaciones internacionales con la legislación penitenciaria rumana (véase la tabla 2, del apartado 5):

1. Situaciones relacionadas con la vida en el CP previstas en las recomendaciones internacionales. Se trata de las nueve SD recopiladas de las recomenda-

ciones internacionales sobre el tratamiento penitenciario del apartado 3, que hemos repartido entre los dos tipos de derechos que nos interesan: información y comunicación. Al estar ya asociadas a un tipo de derecho, las consideramos situaciones discursivas informativas (SDI 1-3) o bien situaciones discursivas comunicativas (SDC 1-6).

2. Medida prevista en las recomendaciones internacionales.
3. Transposición a la legislación penitenciaria rumana de un sistema penitenciario concreto (artículo de la legislación en el que se prevé ese derecho).
4. Medida prevista en la legislación rumana.

c) Aplicamos esta dimensión del modelo para encontrar las medidas relacionadas con la T&I, observando el tipo de SD y las situaciones relacionadas con la vida en el CP, previstas en la legislación rumana (ingreso en el CP, atención sanitaria, etc.). Para poder interpretar los datos, sistematizamos en tres niveles el porcentaje de transposición del total de nueve SD extraídas en los apartados 3.1 y 3.2 y enumeradas en la tabla 2: un primer nivel básico con la transposición de un tercio del total de situaciones (cero-tres); un segundo nivel intermedio con entre cuatro y seis situaciones, y un tercer nivel con la transposición de siete a nueve de las situaciones establecidas. Una o varias disposiciones claras que estipulen el ejercicio de los derechos de base lingüística referidos (información y comunicación) mediante el uso de una/un intérprete profesional o competente también situarían al sistema penitenciario en el tercer nivel de transposición.

5. El caso de Rumanía: aplicación del modelo de análisis

5.1. Resultados

En este apartado, analizamos la normativa de Rumanía atendiendo a los criterios de Martínez-Gómez (2018) y a las SD previstas en las recomendaciones internacionales en relación con los dos tipos de derechos (comunicación e información) y el rol reconocido a la T&I en ellos.

En la legislación rumana, encontramos siete referencias a derechos de base lingüística para personas reclusas alóglotas. De ellas, tres se refieren al derecho

a la información, para las que se incluyen dos referencias a una persona intermediaria, y cuatro al derecho de comunicación (tabla 1). Además, se hacen dos referencias a la figura de la o el intérprete en otras dos situaciones caracterizadas por el derecho a la comunicación (Regulament 2016, art. 38.3*h*, art. 38.8 y art. 258.2).

Tabla 1. Resumen de referencias a derechos de base lingüística para la población reclusa alóglota y a la interpretación en la legislación penitenciaria rumana
Fuente: Elaboración propia.

Tipo de derecho de base lingüística reconocido a la población reclusa alóglota	N.º de referencias a los derechos lingüísticos de la persona reclusa alóglota	N.º de referencias a intérprete/personas intermediarias	Situaciones relacionadas con la vida en el CP previstas
Derecho a la información	3	2 -«una persona que pueda comunicarse con la persona penada» (Legea 254/2013, art. 61.2). -«una persona que pueda comunicarse con el interno» (Regulament 2016, art. 125.3) como medida que la administración debe tomar para asegurar el derecho a la información.	-El acceso a disposiciones legales y documentos relativos a la ejecución de penas (después del ingreso en el CP) (x2). -Informar sobre el derecho a informar a un familiar u otra persona sobre el CP donde se encuentra.
Derecho a la comunicación	4	-	-Informar/solicitar que se informe a un familiar u otra persona sobre el CP donde se encuentra [al que se remite a través de un derecho informativo]. -Comunicación con autoridades diplomáticas. -Comunicación con visitas. (x2)

Derecho a la comunicación. Interpretación en circunstancias específicas	2	2 -3 referencias a intérprete. -De estas, 2 son situaciones en las que es necesario contar con intérprete y 1 incluye detalles sobre la ubicación del/de la intérprete.	-Vistas telemáticas aplicables a varias situaciones (procedimiento). -Las declaraciones de las personas detenidas o en prisión preventiva bajo investigación penal en los centros de detención y prisión preventiva.
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* En la columna de la derecha, x se refiere al número de veces que figura esta situación en la legislación analizada.

Es importante destacar que, aunque se trate de nueve referencias, en realidad, solamente son cinco las situaciones relacionadas con la vida en el CP previstas, ya que varias disposiciones hacen referencia a las mismas situaciones y algunas se prevén tanto en la ley penitenciaria como en el reglamento.

De las nueve referencias encontradas, cuatro tienen relación con una medida concreta que se debe tomar para informar a las personas reclusas alóglotas, y cinco son referencias para las que no se especifica una medida concreta. Las medidas que sí se especifican son, en primer lugar, una «persona intermediaria» que puede comunicarse con la persona reclusa y, en segundo lugar, un/a «intérprete». A esta/e intérprete se la/lo sitúa junto con otros profesionales en los actos en los que se prevé su participación, es decir, junto con el «abogado [...] u otros participantes» y «los intérpretes autorizados de la lengua de signos o de la lengua específica de la persona con sordoceguera» (2016, art. 38.3h y 258.2).

Con respecto a la precisión de la redacción, el lenguaje es bastante preciso en algunos puntos y ambiguo, o incluso vago, en otros. Por un lado, encontramos tres aspectos que demuestran cierta precisión. En primer lugar, las referencias al derecho a la información, su mención en el contexto del desconocimiento de la lengua y los problemas de comunicación por parte de la persona reclusa, así como la enumeración en un mismo párrafo de posibles dificultades lingüísticas que puede encontrar (comprensión, expresión o deficiencias de comunicación):

Derecho a la información [...] (3) Si el interno no habla o no entiende el rumano, no puede expresarse o tiene deficiencias de comunicación, la administración penitenciaria debe tomar las medidas necesarias para informar sobre el contenido de las leyes mencionadas en el párrafo (2), a través de una persona que pueda comunicarse con el interno. (Regulament 2016, art. 125.3)

Esta enumeración también se encuentra en los artículos 43.8 y 61.2 de Legea 254/2013. En segundo lugar, encontramos la concreción de una medida que debe utilizarse en determinadas situaciones y, aunque no se trate de muchas disposiciones o situaciones, las referencias concretas a «intérprete», junto con otros participantes en la vista telemática (Regulament 2016, art. 38.3h y 258.2). Por último, en las mismas disposiciones se concreta la persona/entidad responsable de tomar medidas en las situaciones en las que se requiere la presencia de intérprete: «La institución que solicite la declaración será responsable de garantizar la presencia del intérprete».

Por otro lado, algunas de las características ya mencionadas también muestran un uso ambiguo o vago del lenguaje que resulta en poca claridad o falta de precisión. La ambigüedad principal reside en la referencia a una persona «que pueda comunicarse» para facilitar la comunicación o la información, sin que se utilice la palabra «intérprete» o se concrete la figura. Esta figura se encuentra en situaciones informativas y algunas situaciones comunicativas (vistas telemáticas), pero no en otras situaciones comunicativas en las que debe actuar una o un intérprete. La presencia de la o el intérprete se expresa con claridad, pero no se concreta si se trata de una o un intérprete *autorizada/o* o no. Asimismo, observamos que la falta de capacidad de comunicación de la persona reclusa se expresa de manera explícita mediante verbos relacionados («no habla», «no puede expresarse») o se incluye la palabra *comunicación* («tiene deficiencias de comunicación») para cubrir varias circunstancias que pueden darse. Sin embargo, cuando implica el derecho a comunicarse, este derecho no se expresa con claridad, ya que se hace referencia al «derecho a informar o a solicitar que [...] sea informada». Asimismo, la comunicación en el idioma de la persona reclusa en algunas circunstancias (las visitas) se expresa como posibilidad («pueden comunicarse»), no como un derecho. Por último, la

vaguedad se encuentra también presente en las situaciones para las que no se mencionan las medidas para informar, los detalles sobre la comunicación durante las visitas y la comunicación relacionada con la puesta en conocimiento de la detención o encarcelamiento a la misión diplomática u oficina consular.

Una vez aplicado el modelo inicial, nos centramos en una dimensión más específica que compara las situaciones previstas en las recomendaciones internacionales con las situaciones previstas en la legislación rumana. Esta comparación tiene en cuenta la diferenciación entre los dos derechos de base lingüística ya referidos: un derecho a la información y un derecho a la comunicación. Para ello, incluimos la información en el modelo de definición de esta dimensión propuesto en el apartado 4.2 (véase la tabla 2):

Tabla 2. Comparación de la legislación penitenciaria rumana con las recomendaciones internacionales
Fuente: Elaboración propia

Recomendaciones internacionales			Legislación penitenciaria rumana	
1. SD relacionadas con la vida en el CP previstas en las recomendaciones internacionales referidas	2. Medida prevista en las recomendaciones internacionales	Referencia de la medida prevista	3. Transposición a la legislación penitenciaria rumana	4. Medida prevista en la legislación rumana
- Recomendación CM/Rec (2012)12 (Comité de Ministros del Consejo de Europa 2012) - Reglas Nelson Mandela (AGNU [1955]) 2015) - Recomendación Rec (2006) 2-rev (Comité de Ministros del Consejo de Europa 2020)				
Derecho a la información				
SDI.1. Información sobre normativa aplicable e información necesaria para la adaptación a la vida en el CP	Intérprete Resúmenes en lugar visible (SDII.1)	Información al ingreso en el CP (2015, 55.1)	Derecho a la información (2013, 43.8, 61.2) (2016, 125.3)	«una persona que pueda comunicarse con el interno/el penado»
SDI.2. Información sobre las posibilidades de traslado			-	

SDI.3. Información sobre las acusaciones en casos de faltas disciplinarias	Intérprete (SDII.2)	Medidas y sanciones disciplinarias. (2020, 59.a; 59.e)	-	
Derecho a la comunicación				
SDCI. Informar solicitar que se informe sobre su encarcelamiento a su familia representantes consulares, asesores jurídicos, y otras organizaciones y personas competentes que puedan ayudarles	-		Informar/solicitar que se informe a la familia u otra persona sobre el CP donde se encuentra (2013, 43.4) Comunicación con autoridades diplomáticas (2013, 43.6) Comunicación con visitas (2016, 139.13, 248.8, 248.9)	
SDC2. Formular peticiones o quejas	-		*Resolución de quejas mediante vistas telemáticas (2016, 37, 38.8)	
SDC3. Comunicarse con el asesor jurídico	Intérprete (SDCI.1)	Asesoramiento y asistencia jurídica (2012, 21.3; 2015, 61.2)	-	
SDC4. Comunicarse con las autoridades penitenciarias/ en la audiencia disciplinaria	Intérprete (SDCI.2)	Medidas/sanciones disciplinarias (2012, 21.5; 2015, 41.3; 2020, 59)	-	
SDC5. Asistencia sanitaria	Intérprete (SDCI.3)	Asistencia sanitaria (2012, 31.4)	-	

SDC6. Situaciones generales no especificadas según las necesidades lingüísticas de las minorías étnicas o lingüísticas en general ¹⁰ o según la necesidad ¹¹	Intérprete (SDCI.4)	(2012, 8; 2020, 38.3) (2015, 80.2)	Vistas telemáticas solicitadas por otros órganos (2016, 38.8, 258.2)	Intérprete
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Como podemos apreciar en la tabla 2, en la legislación penitenciaria rumana se prevén los dos tipos de SD establecidas en nuestro modelo basado en las recomendaciones internacionales, aunque en un número mucho más reducido. En primer lugar, encontramos una sola situación de las tres previstas, en este caso, la SDI asociada a la información al ingreso en el CP (que incluye el acceso a la información prevista en la legislación y normativa específica). En segundo lugar, encontramos tres SDC de las seis previstas en las recomendaciones: comunicación con autoridades diplomáticas, comunicación con visitas y las vistas telemáticas (estas últimas, de régimen externo, ya que deben solicitarse por parte de otras entidades). En el marco del modelo propuesto, se transponen cuatro de un total de nueve principios/reglas de las recomendaciones internacionales. Eso significa que el nivel de transposición de las recomendaciones internacionales es intermedio, ya que no se mencionan las medidas específicas para garantizar la presencia de la o el intérprete en la comunicación de la persona reclusa alóglota con su asesoría jurídica, en situaciones de asistencia sanitaria, con las autoridades penitenciarias en general y en la audiencia disciplinaria.

¹⁰ «Los internos extranjeros que lo requieran» (Comité de Ministros del Consejo de Europa 2012, 8) y «Las necesidades lingüísticas deben satisfacerse utilizando intérpretes competentes y proporcionando material escrito en la variedad de lenguas utilizadas en un centro penitenciario concreto» (Comité de Ministros del Consejo de Europa 2020, 38.3).

¹¹ «cada vez que sea necesario».

5.2. Interpretación de resultados

Nuestra aplicación del modelo base y su ampliación han revelado una serie de aspectos de utilidad para caracterizar la política de T&I en el ámbito penitenciario de Rumanía y su categorización de acuerdo con el modelo propuesto.

Como punto de partida, las características detectadas nos permiten ubicar la política de T&I en el sistema penitenciario de Rumanía en el segundo grupo de la clasificación original de Martínez-Gómez (2018). Este grupo tiene políticas limitadas y tiene acceso a información básica (sobre el ingreso en el CP, los derechos y deberes de los internos y las normas penitenciarias) en un idioma que las personas reclusas puedan entender (2018, 159). En este sentido, destaca el número bajo de situaciones para las que se utilizan medidas para facilitar el acceso a la lengua y la ambigüedad y vaguedad del lenguaje en algunos puntos importantes, lo que se traduce en un nivel de precisión del lenguaje que podríamos clasificar como intermedio. El recurso a intérprete se estipula, en primer lugar, para la vista telemática, que es, en realidad, un procedimiento aplicable a toda la población reclusa. Puede aplicarse en el caso de que un Juzgado de Vigilancia Penitenciaria de otro CP lo requiera, así como en el caso de la vista/audiencia para cualquier otro procedimiento judicial (Legea 254/2013, 29.1). En segundo lugar, también se utiliza «cuando es necesario» en determinadas situaciones¹² (Regulament 2016, art. 37). Sin embargo, este procedimiento se pone en marcha mediante una solicitud realizada por la autoridad o la institución correspondiente y el gasto corre a cargo de la institución que la solicita. Por lo tanto, la presencia de intérprete es necesaria en caso de que en la vista participen personas que desconocen el rumano (2016, art. 38.8, 258.2). Eso significa

¹² (a) la investigación previa de las faltas disciplinarias;
(b) la resolución de las quejas de los reclusos;
(c) las investigaciones para la reparación de daños;
(d) las investigaciones relacionadas con la confiscación de dinero y bienes;
(e) las investigaciones relacionadas con la toma de medidas con respecto al ejercicio de los derechos;
(f) cualquier otro procedimiento previsto por la ley.

que no se trata de una medida para facilitar la comunicación de la persona reclusa alóglota a nivel interno dentro del CP. En cuanto al resto de las características del modelo original, la existencia de una ley específica y la prescripción de principios éticos para intérpretes profesionales, no parecen directamente aplicables al sistema penitenciario de Rumanía. De hecho, a pesar de contar con la figura de la o el intérprete autorizada/o para actuar en contextos jurídicos y judiciales (Legea 178/[1997]2016), su uso no se estipula para el régimen interno sino para las vistas telemáticas y en régimen de comunicación externa mientras que, para la información y comunicación interna, puede utilizarse otro tipo de figura (alguien capaz de comunicarse).

Con respecto a las modificaciones añadidas al modelo original, el nivel de transposición de las recomendaciones internacionales es intermedio, ya que no se mencionan las medidas específicas para garantizar la presencia de intérprete en la comunicación de la persona reclusa alóglota con quien le presta asesoría jurídica, en situaciones de asistencia sanitaria, con las autoridades penitenciarias en general y en la audiencia disciplinaria.

En un nivel más concreto, observamos que, en la legislación analizada, se estipula un derecho específico y explícito a la información (Regulament 2016, art. 125.3; Legea 254/2013, art. 43.6), pero no un derecho específico y explícito a la comunicación, en concordancia con las recomendaciones internacionales. Aunque se sobreentiende que la comunicación implica transmisión de información, en la mayoría de los casos, no se diferencia claramente entre estos dos derechos. Observamos este aspecto en la mención de la transmisión de información por parte de la Administración como solución a la necesidad de comunicación de la persona reclusa, que se reconoce en la misma legislación («no habla», «no puede expresarse») (Legea 254/2013, art. 43.8). Por otro lado, también encontramos la situación contraria: para «informar» a la persona reclusa, se debe contar con una persona que pueda «comunicarse» (Regulament 2016, art. 125.3; Legea 254/2013, art. 61.2). Además, toda la casuística relacionada con las capacidades de la persona reclusa o sus limitaciones en cuanto al lenguaje se mencionan en la misma disposición. También se menciona bajo el mismo concepto de «derecho a la información», título del artículo (Regulament 2016, art. 125.3), independientemente de si se trata de habilidades que permiten la recepción de la

información (comprender) o de habilidades que impliquen su participación activa en la comunicación (expresarse) (véanse ejemplos en el apartado 5.1). En la misma línea, parece que las diferentes vulnerabilidades lingüísticas de la persona reclusa alóglota se utilizan como casuística que se puede cubrir mediante una única medida independientemente del tipo de situación discursiva.

Teniendo en cuenta nuestra propia diferenciación entre estos dos tipos de SD, en general, encontramos un vacío legal con respecto a la referencia explícita a un derecho a la comunicación tanto en las recomendaciones internacionales como en la legislación penitenciaria rumana. En algunas referencias, la obligación de informar («debe tomar las medidas necesarias para informar/proporcionar información», Legea 254/2013, art. 43.8 y 61.2; Regulament 2016, art. 125.3) es más evidente que el derecho a la comunicación de la persona reclusa. De hecho, la capacidad de comunicación es más bien un requisito para la persona que actúa como intérprete o incluso que tenga un nivel de idioma suficiente para ser capaz de informar («una persona que pueda comunicarse»). Esta diferenciación entre la mención explícita de algunos derechos de base lingüística (a la información) y la asunción de otros (comunicación mediante T&I), así como la ambigüedad o la falta de precisión con respecto a las figuras de interpretación o las medidas para facilitar esos derechos pueden confundir a la vez que restringir derechos. Esta tendencia confirma las afirmaciones de Martínez-Gómez (2018, 158) y Mowbray (2017, 51) en este sentido.

En cuanto a las referencias a la T&I en las recomendaciones internacionales, la interpretación se prevé como una medida principal de comunicación en ambos tipos de situaciones o un servicio para asegurar determinados derechos que, como ya mencionamos en el apartado 5.1, podrían incluirse en el derecho a la información o bien a la comunicación. Esto contrasta con la tendencia observada en la legislación penitenciaria rumana. En esta legislación, la interpretación se integra en su redacción no explícitamente como un derecho de la persona reclusa alóglota, sino como una obligación que debe cumplir la entidad que solicita un procedimiento específico, la vista telemática. También se percibe como un servicio para cuya prestación la Administración debe asegurar ciertas condiciones como reservar un espacio adecuado (Regulament

2016, art. 7). Esta característica coexiste con las situaciones discursivas en las que se prevé el ejercicio de derechos de base lingüística, pero a través de una persona capaz de comunicarse que puede no ser específicamente una o un intérprete. Esto indica que no se está aprovechando el potencial de la profesionalización de la T&I en el ámbito jurídico-judicial para facilitar la comunicación de la persona reclusa alóglota en los CP, ya que no se está utilizando a nivel interno.

Este planteamiento de la política de T&I se observa también en relación con la política lingüística de las lenguas minoritarias en Rumanía. Toró (2020, 5) subraya que existen problemas en la aplicación de estas políticas con respecto al húngaro y un «mecanismo oculto de la política lingüística en Rumanía»: debido a la falta de instrucciones sobre el uso de la lengua minoritaria en la comunicación con la Administración pública, a la falta de control de los mecanismos de implementación, así como el margen que las autoridades estatales dejan a los municipios para la negociación, «los municipios pueden elegir si quieren aplicar las disposiciones sobre el uso de las lenguas minoritarias o no». Esto ocasiona porcentajes más bajos de los esperados en cuanto a la aplicación de esta política. En definitiva, esto sugiere la coexistencia de dos tendencias opuestas, que también se observa en el derecho internacional: por un lado, el apoyo al desarrollo de políticas de T&I para integrar a las minorías lingüísticas y, por otro, la existencia de un marco para políticas de «la traducción como marginación» (Mowbray 2017, 32).

El siguiente paso necesario para poder valorar el nivel de madurez de la política de T&I en el sistema penitenciario rumano sería contrastar los datos obtenidos con su política lingüística en un nivel más amplio, con la práctica real basada en datos provenientes de diferentes participantes (la población reclusa y el personal penitenciario) y con las evaluaciones de organismos internacionales.

6. Conclusiones

Este estudio se ha centrado en la legislación penitenciaria de Rumanía para describir el elemento normativo de su política lingüística en el ámbito

penitenciario en lo referente a las personas alóglotas. Para describirlo, nos basamos en un modelo ya existente que hemos ampliado para poder concretar características teniendo en cuenta una serie de aspectos: en primer lugar, el grado de exhaustividad de la política de T&I y el nivel de transposición de estos derechos a la legislación rumana teniendo en cuenta las recomendaciones internacionales; en segundo lugar, la diferenciación entre el derecho a la información y el derecho a la comunicación y las situaciones relacionadas con la vida en el CP para las que se prevé la T&I en el ejercicio de estos derechos.

La distinción ofrecida entre derechos a la información y derechos a la comunicación es útil porque plantea diferentes necesidades a la Administración. Por un lado, tenemos una situación informativa (que puede cubrirse mediante, por ejemplo, materiales informativos traducidos, material audiovisual en otras lenguas o *software* multilingüe interactivo seguidos por sesiones de dudas con interpretación telefónica) y, por otro lado, una situación comunicativa con características distintas (cuyas medidas podrían ser la interpretación profesional presencial, telefónica o telemática). Algunas de estas medidas ya se están utilizando de manera diferenciada en algunos países como el Reino Unido: material informativo, pantallas táctiles multilingües interactivas, audios para las personas reclusas con déficit de alfabetización (Martínez-Gómez 2018, 164), red de personas reclusas formadas para ayudar a la integración lingüística de nuevas personas reclusas extranjeras (2008, 490-491) o interpretación profesional (2018, 162). A raíz de nuestro análisis, hemos ampliado la lista de sistemas penitenciarios que clasifica Martínez-Gómez (2018) con el sistema penitenciario de Rumanía y hemos detectado que este país tiene una política de T&I de nivel intermedio, con limitaciones y con tendencia a la exclusión. En general, se observan desequilibrios entre las medidas adoptadas para el disfrute de los derechos a la comunicación y a la información, lo que abre el debate sobre en qué medida la legislación, en este caso de Rumanía, silencia a la población reclusa alóglota.

El estudio nos permite destacar la importante relación entre los derechos a la información y a la comunicación, de una parte, y la T&I, de otra. Por un lado, los derechos a la información y la comunicación pueden situarse en la base de un

derecho a la T&I como el derecho previsto por las directivas europeas aplicables a la T&I judicial (Directiva 2010/64/UE, Directiva 2012/13/UE y Directiva 2012/29/UE). Por otro lado, podrían considerarse derechos fundamentales de la persona reclusa que se ejercen mediante la T&I como instrumento para dos tipos de situaciones discursivas que observamos en las recomendaciones internacionales y que prevén servicios de interpretación para asegurar determinados derechos. Esta última perspectiva concuerda con la percepción de la traducción y de la lengua en sí como instrumentos, no como derechos (Mowbray 2017, 51-53). De hecho, la traducción, entendida en su sentido más general, es considerada como el instrumento que permite crear condiciones igualitarias de acceso a los derechos humanos para las minorías lingüísticas (Angelelli 2012; Mowbray 2017). Para que esto sea así, ha de haber una consideración mayor de la interpretación en los marcos internacionales y nacionales.

En el caso específico de Rumanía, es notable la falta de referencias a un servicio de interpretación para estas situaciones. Esto puede representar un obstáculo para la participación de la persona reclusa alóglota no solo en el acto comunicativo efectivo, sino también en el ejercicio de sus derechos y obligaciones en el mismo CP. Esta situación es similar a la situación presentada por Carroll et al. (2017, citado en McLeod 2018, 4), en la que los obstáculos comunicativos y lingüísticos sin un apoyo específico afectan a la participación de las personas en las actividades sociales en cuestión y al ejercicio de los derechos mencionados en la DUDH (AGNU, 1948, arts. 23-27). En definitiva, se trata de una desigualdad en la prestación de servicios lingüísticos, que, como indican Monzó-Nebot y Mellinger (2022, 19), obstaculiza el acceso al desarrollo personal y social, y al bienestar; corresponde a los gobiernos y las sociedades proporcionar medidas para el acceso de las lenguas minoritarias a experiencias sociales significativas.

En última instancia, esta diferenciación podría contribuir a llamar la atención sobre las asunciones erróneas en las que se basa la regulación de la traducción desde su formulación en derecho internacional (Mowbray 2022, 38). En ese sentido, consideramos que la legislación penitenciaria debería prever, en primer lugar, la definición precisa del derecho a la información y el derecho a la comunicación de manera diferenciada y, en segundo lugar, la medida mediante

la cual se podrá ejercer en cada tipo de situación en el caso de la población reclusa alóglota. El interés por la comunicación (como proceso bidireccional) reflejaría un mayor compromiso con la población reclusa alóglota, mientras que la información (unidireccional) podría verse como un interés institucional (por ejemplo, obtener la cooperación de la población reclusa desde el conocimiento de las normas de conducta).

Con este estudio, hemos contribuido a visibilizar la función que los CP todavía preservan en las sociedades modernas como forma de incrementar la eficiencia del castigo del alma (Foucault 1975), que sustituye el espectáculo de la violencia por una retirada más sutil de derechos; en el caso estudiado, de la traducción y, más notablemente, la interpretación, a partir de los que se cercenan los derechos a la información y la comunicación. El que la información se reconozca por encima de la comunicación establece una relación de tipo sujeto-objeto que perpetúa relaciones de dominación entre el Estado y las personas, a quienes no se les reconoce más que esporádicamente el derecho a hablar (Benedito 2010, 9-19). La falta de una estipulación clara del derecho a la comunicación puede afectar la propuesta de medidas por la Administración para democratizar las relaciones de gobierno, abarcar necesidades de grupos no dominantes, dar voz a los grupos desfavorecidos y permitirles el pleno disfrute de sus derechos.

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The glottopolitics of *Països Catalans* in the Valencian elections of 28 May 2023

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To cite this article:

Lledó-Guillem, Vicente. 2023. "The glottopolitics of *Països Catalans* in the Valencian elections of 28 May 2023." In "Ideologies and Language Rights Meet (and Clash)," edited by Rafael Castelló-Cogollos & Esther Monzó-Nebot. Special issue, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 157–187.

<https://doi.org/10.7203/Just.2.27141>.

Article received: 18/07/2023 Final version accepted: 02/10/2023



© By the author, 2023. JUST. JOURNAL OF LANGUAGE RIGHTS & MINORITIES, REVISTA DE DRETS LINGÜÍSTICS I MINORIES, VOL 2 (2), CÀTEDRA DE DRETS LINGÜÍSTICS – UNIVERSITAT DE VALÈNCIA. ISSN: 2952-2307

LanguageRightsMinorities.org, DretsLinguisticsMinorities.org

The glottopolitics of *Països Catalans* in the Valencian elections of 28 May 2023

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Abstract

Following the Spanish municipal elections on 28 May 2023, the conservative party *Partido Popular* (PP) and the far-right group VOX reached an agreement to govern the Valencian region in coalition. Notably, their agreement explicitly mentions the term *Països Catalans*. Employing a glottopolitical perspective with an approach based on linguistic ideologies and post-colonial studies, this article scrutinizes the reference in connection with the distinct electoral programs of PP and VOX. The analysis underscores a shared linguistic agenda between the two parties. I contend that PP opposes the inclusion of the Valencian region in the *Països Catalans* by asserting the authenticity of Valencian as a separate language from Catalan, positing it as representing the Valencian identity. In contrast, VOX advocates for the dominant role of Spanish across formal societal domains by emphasizing the anonymity of Spanish as the language of no one and everyone. However, the agreement shows that PP's electoral program can be read as denying the unique standing of the Valencian language in representing the Valencian identity, as the Valencian language is positioned at a parity with other Valencian cultural markers, such as music, artists, and folklore, all of which can ostensibly be expressed in Spanish. Consequently, the refusal of *Països Catalans* entails the disappearance of the Valencian *language*.

Keywords: *Països Catalans*, Valencian language, authenticity, anonymity, sociolinguistic naturalism, glottopolitics

1. Introduction

After the municipal elections held in Spain on 28 May 2023, the Valencian region, known as *Comunitat Valenciana* or *País Valencià*, underwent an important political transformation. Since 2015 a left-wing coalition constituted by *Partit Socialista del País Valencià* (PSPV) ('Socialist Party of the Valencian Region'), *Compromís* ('Commitment'), and *Podem (Unides Podem)* ('We Can' ['United We Can']) had led the Valencian Government,¹ with Ximo Puig, member of the PSPV, as the President of the *Generalitat Valenciana* ('Valencian Government') between 2015 and 2023. However, the results of the elections of 28 May 2023 made possible a new coalition between the conservative party *Partido Popular* (PP) ('Popular Party') and the far-right group VOX. Soon after the conservative victory, PP and VOX released the agreement between the two parties to constitute the government of the Valencian region with fifty main points (PP & VOX 2023; La Vanguardia Barcelona 2023). As a result, the current president of the *Generalitat Valenciana* is Carlos Mazón, member of the PP.² A member of VOX, Vicente Barrera Simó, is the Vice-President of the Valencian Government, and the same far-right party will oversee the conselleries ('offices of the regional government') of Culture, Agriculture, Justice, Interior, and Governance. Furthermore, María de los Llanos Massó Linares, a member of VOX, has been the President of the Valencian Courts since 26 June 2023.³

This is the first time that a far-right group takes part in the autonomous government of the Valencian region since the beginning of the democratic

¹ *Unides Podem* appeared as *Podem* in the elections of 2015 as it did not include *Esquerra Unida* ('United Left'). The Government was constituted through *L'Acord del Botànic* ('The Botanical Agreement'), formally endorsed at the Botanical Gardens of the University of Valencia on 11 June 2015. This accord marked a coalition between PSPV and *Compromís* with the support of *Podem*. On 12–13 June 2019 a new version of *L'Acord del Botànic*, known as *Botànic II* was entered into. This iteration saw the coalition for government formation encompassing PSPV, *Compromís*, and *Unides Podem*. *Unides Podem* comprised both *Podem* and *Esquerra Unida* (El País 2019). Ximo Puig renewed his presidency.

² His official inauguration took place on Thursday, 13 July 2023 and he took office on Monday, 16 July 2023.

³ *Les Corts Valencianes* are the legislative body of the Valencian Government.

transition in 1975. As a result, some of the ideas that were implicit during the government of PP (1995–2015),⁴ such as the opposition to pan-Catalanism, have been made more explicit due to the coalition between PP and VOX. Thus, in his first speech at the Valencian Courts on 20 September 2023, Vice-President Vicente Barrera Simó established opposition to pan-Catalanism as one of the main objectives of the *Conselleria de Cultura* (Rac1 2023). In the following pages, pan-Catalanism will be understood as the political ideology that supports the linguistic, cultural, and national links between all the territories where the Catalan language is spoken. While the term *Països Catalans* ('Catalan Countries') has been used mainly to refer to these Catalan-speaking territories as a linguistic community (see section 3), the political implications of this community vis-à-vis the Spanish State have also been emphasized.

In my study I analyze point 3 of the agreement between the two parties in which there is a direct reference and rejection of the term *Països Catalans*. I relate this direct reference to the political programs of PP and VOX. I show how, from a linguistic ideological point of view, the discussion whether the Valencian region belongs to the *Països Catalans* can be treated as an issue of linguistic authority, that is, how the Valencian language or variety should relate to society and what would be its position vis-à-vis Catalan and Spanish.⁵ In other words, how the issue of the inclusion of the Valencian region inside the *Països Catalans* relates to the dichotomy of authenticity and anonymity regarding Valencian, Catalan, and Spanish. Ultimately, I argue that the Valencian region is described by both political parties as the colonized other, whose linguistic identity is constructed by gazing at the Castilian colonizer: the imperial Other. Thus, according to PP and VOX, Valencian identity should be represented by Spanish, as it is an anonymous language that belongs to everyone and no one.

This article uses a perspective known as glottopolitics, which considers that language and politics are inseparable (Valle 2017, 17). Thus, we focus on three

⁴ Eduardo Zaplana (1995–2002), José Luis Olivas (2002–2003), Francisco Camps (2003–2011), and Alberto Fabra (2011–2015).

⁵ As the study will show, the inclusion of the Valencian region into the *Països Catalans* implies accepting that Valencian is a variety of Catalan and not a separate language (see section 3).

primary texts—the political programs of PP and VOX and the agreement between the two parties—and we adopt an interdisciplinary approach to analyze how language relates to power or authority and how certain social groups benefit at the expense of others (Valle et al. 2021, 19; Valle 2017, 18; Arnoux 2014). The analysis draws on theoretical concepts from North American linguistic anthropology (language ideologies, sociolinguistic naturalism, anonymity, authenticity), and post-colonial studies (palimpsest, the other/the Other).

2. Sociolinguistic naturalism

Kathryn A. Woolard posits the ideology of sociolinguistic naturalism as grounded in a presumed inherent link between language and society (Woolard 2016, 30–32; Joseph 2000). This connection yields two potential outcomes: on the one hand, certain languages are deemed authentic due to their alignment with the essence and ethos of a specific community (Woolard 2007, 131). The speaker's essence and identity eclipse the content expressed in the specific language. On the other hand, other languages are considered anonymous because they belong to everyone and no one (Woolard 2016, 7). In other words, they transcend individual associations and are naturally inclined towards global usage.⁶ Thus, in an anonymous language the message's substance takes precedence over the speaker's identity (Woolard 2007, 133).

These two ideologies of authenticity and anonymity may be used as opposites. However, they share a backdrop of sociolinguistic naturalism, where the relationship between language and society is portrayed as innate. Sociolinguistic naturalism opposes the "recognition of the agency of speaking subjects and . . . a historicized image of language as constructed by human action" (Woolard 2016, 30–31). Andrew Frank Bradley elaborates on this duality, framing anonymity and authenticity as

⁶ The ideological acceptance of the anonymity of a language carries with it the erasure of the historical circumstances that allowed that language to be considered anonymous. Bourdieu refers to the naturalization of this acceptance as *méconnaissance* (Bourdieu 1991; Woolard 2007).

the endpoints of a continuum or “poles of an axis of linguistic differentiation” in which, for example, an authentic language may become anonymous (Bradley 2020, 54; Gal 2012), especially if we emphasize the role of human will. As Woolard notes, human will can usher in a post-natural authenticity, where an individual not born into a language community chooses to join it willingly. “Authenticity can also be framed as ‘where you are going.’ It can be a goal, invested in the cultivation of a coherent self” (Woolard 2016, 33). This perspective underlines speakers’ agency, rejecting the notion of humans as passive recipients of language and identity.

Sociolinguistic naturalism, along with the concepts of authenticity and anonymity, are language ideologies. I define language ideologies as a set of ideas about language in general or about specific languages, shaped by unique historical, social, and political contexts. Notably, these ideas are presented as universally valid across different geographical or temporal contexts. Language ideologies are not inherently true or false, but “positioned and partial visions of the world” (Gal & Irvine 2019, 2), and they can be contested. Consequently, language ideologies require consistent reinforcement to maintain their facade of universal validity. They benefit certain social groups at the expense of others, resulting in an inequitable distribution of power. This power imbalance is inherently political and profoundly influences individuals’ behaviors (Joseph 2006, 2).

3. The issue of *Països Catalans*

PP and VOX present two apparently contrasting positions concerning the potential integration of the Valencian region inside the *Països Catalans*. First, the idea that Valencian should be regarded as a distinct language separate from Catalan. Advocates of this perspective, such as PP, argue that Valencian is an authentic language deserving of protection. They emphasize the role of Valencian as a cornerstone of cultural nationalism, where language is the basis of an identity.⁷ Furthermore, they posit that Valencian’s significance lies

⁷ According to Tony Crowley, “German Romantic thought, principally in the work of Herder, Fichte

not only in its intrinsic value but also as an alternative to prevent Catalan from becoming the dominant language representing Valencian identity. A second viewpoint favors the complete replacement of Valencian with Spanish in every single formal public setting, including education. This stance, embraced by the far-right group VOX and also reflected in the agreement between PP and VOX, involves the erasure of Valencian's existence. In this approach, the Valencian identity is attached to the imposing Spanish linguistic imperialism, portraying an aspect of colonialism. Spanish is depicted as an anonymous language, positioned to represent the identity of the Valencian region. While PP's program offers some leeway for a less rigid stance on cultural nationalism, this article shows (see section 4) how this new interpretation relegates language to a supplementary role concerning the land's historical and traditional heritage.

The agreement between PP and VOX includes a section on "LIBERTAD" ('freedom') consisting of five main points. Point three states:

Aprobaremos una ley de Señas de Identidad que proteja los valores y costumbres y tradiciones de la Comunidad Valenciana como parte esencial de la plural riqueza de España. Por ello, eliminaremos las subvenciones a las entidades o asociaciones que promuevan los "països catalans." (La Vanguardia Barcelona 2023)

[We will pass a Signs of Identity Act to protect the values, customs, and traditions of the Valencian Region as an essential part of the variety of the Spanish richness. Thus, we will eliminate any kind of subsidies to any entity or association that may support the idea of the "Catalan Countries."]⁸

While more in-depth analysis of this passage will follow, this section foregrounds the specific use of initial capital letters to denote potential group

and Humboldt had theorized the insight which had arisen from colonialism and turned it into a philosophical account of the relationship between language and national identity" (2007, 152–153). This Romantic thought was the basis of cultural nationalism.

⁸ All translations are the author's unless otherwise noted.

identities. It is noteworthy that both “Comunidad Valenciana” and “España” are capitalized, whereas the term “països catalans” is not. This capitalization choice implies a discernible hierarchy among the three political identities, positioning “Comunidad Valenciana” and “España” as superior to “països catalans.” In Catalan, it is customary to capitalize the initial letter of both words in *Països Catalans*. The absence of such capitalization may be interpreted as an attempt to diminish the significance of a concept that holds substantial relevance in Valencian politics, especially when the “Señas de Identidad” Act, that will purportedly safeguard the Valencian region against the perceived threat of *Països Catalans*, begins with capitalized initials.

The term *Països Catalans* emerged in the latter half of the nineteenth century within the context of European cultural nationalism rooted in German Romanticism. Authors such as Herder, Fichte, and Humboldt had supported, from a philosophical point of view, the link between language and nation.⁹ After Philip V of Bourbon’s triumph in the Spanish War of Succession (1701–1715), and the issuance of the Decrees for *Nova Planta* (‘New Structure,’ adopted in 1707, 1715, and 1716),¹⁰ the Crown of Aragon ceased to exist and the Catalan language lost its administrative status in the former Catalan-speaking territories of the Crown of Aragon. The birth of the Catalan cultural movement known as *La Renaixença* (‘the rebirth’) in 1859,¹¹ reignited discussions about establishing a common language, particularly for literary purposes. In fact, the idea of a community united by a shared language had already been extolled in Bonaventura Carles Aribau’s 1833 poem “Oda a la Pàtria” (‘Ode to the Fatherland’). The term “Païses Catalanes” (‘Catalan Countries’) in Spanish first appeared in 1876 in the work of the Valencian author Benvingut Oliver i Esteller (Miralles & Solervicens 2007, 338), although the alternative *Catalunya Gran* (‘Greater Catalonia’) was suggested by Prat de la Riba in 1878 (Bradley 2020, 69). The term gained popularity, especially

⁹ See note 7.

¹⁰ 1707 for the Kingdom of Valencia and the Kingdom of Aragon, 1715 for the Balearic Islands except for Minorca, and 1716 for the Principality of Catalonia.

¹¹ 1859 was an important symbolic date since it marked the four hundredth anniversary of the death of the famous Valencian poet Ausiàs March (1400–1459).

after the publication of Joan Fuster's *Nosaltres, els valencians* (1962) in which the Valencian author advocated for the use of *Països Catalans*. The geographical boundaries of the *Països Catalans* are primarily determined by the presence of Catalan as a shared language:

The Catalan Countries . . . corresponds to the areas where Catalan is an autochthonous language variety, namely Catalonia, Northern Catalonia, Andorra, the Valencian Community, the Balearic Islands, the city of Alghero (*l'Alguer*), in Sardinia, a section of Aragon known as the *Franja de Ponent*, and a small area of the Autonomous Community of Murcia known as *El Carxe*. These regions share a complex relationship, with varying degrees of "Pan-Catalan" sentiment claimed by different groups at different times. (Hawkey 2018, 3–4)

In practical terms, the delineation of the *Països Catalans* on the map is not consistent. Generally, there is a tendency to encompass only the three major territories: Catalonia, the Valencian Region, and the Balearic Islands. Concerning the Valencian Region, it is common practice to include the non-Catalan speaking areas in the *Països Catalans* map (Bradley 2020, 68).

Although the term *Països Catalans* has generated controversy and is not universally accepted, especially within the Valencian region, the social, historical, and political context of Catalan-speaking lands, and particularly since the nineteenth century, favored the use of language as a criterion for defining the *Països Catalans*. This approach made it more straightforward to establish a natural link between the Catalan language and the Catalan identity, regardless of the term employed to denote the resulting political and cultural entity. An illustrative example can be found in Antonio Rubió i Lluch's presentation at the First International Congress of the Catalan language in Barcelona in 1906 (Rubió i Lluch 1908; *Congrés Internacional de la Llengua Catalan* 1908). In his discourse, Rubió i Lluch traced the evolution of Romance Languages throughout history and made several claims. Firstly, he noted that the Renaissance caused a rupture and a divide between the past and present of the peoples of most Romance languages, except for Catalan. While other Romance languages evolved into aristocratic literatures, Catalan

lost its standing as a literary language (1908, 75). However, the absence of influence from grammars and classical aristocratic literature enabled Catalan to maintain its identity and internal cohesion to a degree where the rupture between past and present was less pronounced compared to other Romance languages such as Spanish and French. In fact, the Catalan language remained closely intertwined with the people (1908, 77). Moreover, the language underwent a more natural evolution since it had not been an instrument of grand literature for three centuries (1908, 78). Catalan, in response to the Romantic quest for harmony between popular and written speech, contrasted with the typical Renaissance aristocratic concept of literature (1908, 79). Consequently, we may infer that, according to Rubió i Lluch, Catalan stood out as an authentic language in the Romance world, retaining and reflecting the genuine essence of the people who used it. This suggested organic relationship between Catalan and its speakers, which elevated the authenticity of the Catalan language, may be interpreted as justifying the existence of a cultural and political entity representing all the Catalan speakers—the *Països Catalans*.

Rubió i Lluch's narrative, as reproduced above, omits some aspects. For instance, at the Congress where he delivered his talk, there were two distinct groups representing the Valencian identity: the so-called *valencianistes*, who supported the linguistic separation between Catalan and Valencian, and the *ratpenistes*, who at that moment advocated for the unity of the Catalan language (Ferrando Francés 2018, 255).¹² The natural connection between language and group identity in the form of authenticity could be interpreted in two ways: Catalan representing the entire *Països Catalans*, or Valencian representing the former Kingdom of Valencia. This was fundamentally a linguistic ideological question that transcended language as an isolated entity.

¹² The group *Lo Rat Penat* ('The Bat') supported the unity of the language until 1977, when they began to defend the dialectal features of the Valencian variety. Later, they became secessionists (Ferrando Francés & Nicolás Amorós 2011, 507; Català Oltra 2014, 116).

3.1 Joan Fuster (1922–1992) and the Països Catalans

Joan Fuster was cognizant of this dilemma, but as a staunch advocate of the concept of Països Catalans, he emphasized that an isolated Valencian region separated from the rest of the Catalan-speaking areas was both a utopia and a betrayal of the Valencian essence:

I si cal reajustar i restaurar la nostra personalitat regional, ha d'ésser, naturalment dins un conjunt més ample i consistent[t]. Un País Valencià aïllat és una utopia i seria una traïció a la seva pròpia essència. Des de Salses a Guardamar, de Maó a Fraga, som un poble: un sol poble. Cada un dels nostres països n'és un fragment: o millor, un membre . . . Els Països Catalans no són solament un petit tros d'humanitat que parla una mateixa llengua. Són això, evidentment: però el fet de parlar una llengua, la mateixa, és el resultat d'una altra unitat anterior i origen de nous llaços d'unitat . . . Hi ha un interès explícit a dividir-nos com a catalans. És una forma de reduir-nos a la més inefable inimitat. De vegades, sots capa de "valencianisme", "valenciania" o "valencianitat", hom intenta de separar-nos de la nostra comunitat natural. L'home del carrer es deixa entabanar per aquesta monstruosa perversió, que tots sabem a qui beneficia. Si el País Valencià—posem-nos en la perspectiva més localista—vol salvaguardar la seva personalitat ha d'ésser preservant-se fidel a la seva catalanitat bàsica. (1962, 134–135)

[If we need to readjust or restore our regional personality, we must do it inside a bigger and more consistent group. An isolated Region of Valencia is a utopia that betrays our own essence. From Salses to Guardamar, from Maó to Fraga, we are one people, only one. Each one of our countries is a fragment or, if you prefer, a member . . . The Catalan Countries are not only a small piece of humanity speaking the same language. They obviously are, but speaking the same language is the result of a previous unity and, at the same time, the source of new things in common . . . There is an explicit attempt to divide us as Catalans to make us completely defenseless. Sometimes, under the terms "valencianisme," "valenciania," or "valencianitat" they try to separate us from our natural community. The common man is easy prey to this monstrous perversion, which is beneficial to you know whom. Even if we take the most localist perspective, the only effective way for the Valencian Region to preserve its personality lies in keeping faithful to its basic Catalan character.]

In this passage, Joan Fuster brings to the forefront three pivotal terms: “essence,” “natural community,” and “preserve.” He situates his speech firmly within the realm of sociolinguistic naturalism, where the authenticity of the Catalan language, forming the bedrock of *Països Catalans*’ existence, is considered natural, inherited, and thus impervious to human will. The task of human agency, in this context, is to avoid succumbing to the illusion that this intrinsic bond among the members of the Catalan Countries is non-existent. It is incumbent upon human will to safeguard the natural essence demonstrated by the shared language of the Catalan Countries. This authenticity of the Catalan language also possesses an anonymous facet, as it precludes the possibility of authenticating a separate Valencian language to represent a distinct cultural and linguistic political entity. Fuster contends that a Valencian linguistic authenticity would be unnatural and tantamount to a utopia.

However, Fuster’s perspective situates language in a middle ground. According to him, the Catalan Countries transcend mere linguistic commonality, although language alone serves as the linchpin connecting the past, the present, and the future. There is a common Catalan language because of a preceding historical common essence. Moreover, this shared language strengthens group cohesion by continually uncovering “new things in common.” This observation underscores the importance of historical linguistics, a discipline that has been evolving since the late eighteenth century, as noted by Deborah Cameron. Proficiency in language and its historical context enabled historians to gain a clearer understanding of the peoples they were studying. Language, in many ways, emerged as the most telling reflection of a people’s history, culture, and tradition (Cameron 2007, 278).¹³

Human agency is accorded value in Fuster’s perspective only when it reinforces the natural link between Catalan and the Catalan Countries. When human agency seeks to question this intrinsic connection, Fuster deems it a perilous manipulation contrary to nature. Such manipulation may be inferred

¹³ Cameron also explains that the founding of comparative historical linguistics after the discovery of proto-Indo-European led to the reconstruction of the narrative of social groups (2007, 278).

to favor those groups who intend to persuade Valencians to adopt Spanish as their primary language, thus bolstering the idea that Spanish is an anonymous language capable of including diverse identities. Fuster's passage serves as an illustrative example of sociolinguistic naturalism in which human agency assumes a supplementary role vis-à-vis nature.

As Ferrando Francés and Nicolàs Amorós (2011) explain, at the end of the sixties Valencian secessionism was used by the Franco regime to neutralize the center-left opposition, which supported both Valencian autonomy and linguistic and cultural revival. During the transition to democracy in the seventies, the center-right groups, gathering around the political party UCD (*Unión de Centro Democrático*, 'Unified Democratic Center'), openly opposed this cultural and linguistic revival that was inspired by pan-Catalanism. Instead of accepting the existence of a language shared with the rest of the Catalan-speaking lands, as was the case with the conservatives in the Balearic Islands, linguistic secessionism was used to achieve social and political control.¹⁴ Anti-Catalanism in the Valencian region became particularly virulent in the eighties, with the foundation of a new secessionist party with regards to language, *Unió Valenciana* ('Valencian Union'), and the ideas expressed in the conservative newspaper *Las Provincias*.¹⁵

There is no doubt that anti-Catalanism and linguistic secessionism influenced Valencian politics during the governments of the PSPV (1982–1995) and PP (1995–2015) (Ferrando Francés & Nicolás Amorós 2011, 425–426). PP tried to settle the dispute by creating *La Acadèmia Valenciana de la Llengua* (AVL) in 1998, when the conservative party was clearly dominant in the Valencian region (see section 3.2). Certainly, since the foundation of AVL, PP did not refrain from using anti-Catalanism to obtain votes during the elections, but once in power this

¹⁴ José Ramón Pin Arboledas, provincial secretary of UCD in the Valencian region, considered that linguistic secessionism was the most effective, imaginative, and Mediterranean way to oppose the project of the Països Catalans, as these cannot be understood without a linguistic unity (Flor 2012, 140).

¹⁵ *Unió Valenciana* obtained representation in both the Valencian Courts and the Spanish Parliament until 1999 (Ferrando Francés & Nicolás Amorós 2011, 426).

anti-Catalanism was not made as explicit. However, after the coalition between PP and VOX, linguistic secessionism and anti-Catalanism have been supported and expressed much more overtly.

In the subsequent sections of this article, I analyze how the electoral programs of PP and VOX in the municipal elections of 28 May 2023, as well as the subsequent agreement between the two parties, approached the authenticity and/or anonymity of Spanish, Valencian, and Catalan. Additionally, I describe the role of human agency from a linguistic ideological perspective within these programs.

3.2 Partido Popular and the exaltation of Valencian as an authentic language different from Catalan

The electoral program of PP serves as a primer illustration of the naturalistic association between language and identity that must remain unbroken. Notably, among the electoral programs of the Valencian elections of 28 May 2023, PP stands alone in explicitly addressing the term *Països Catalans*, which is described as both unnatural and unconstitutional. Within the framework of this unconstitutionality and the Valencian *Estatut d'Autonomia*,¹⁶ PP's electoral program implicitly disputes the unity of the Catalan language. Additionally, it subtly rejects the linguistic authority of the AVL, the institution that sets common linguistic norms for Catalan within the Valencian territory and that was founded in 1998 when PP was in power in the Valencian region.

According to PP's electoral program, “la lengua valenciana es uno de los símbolos más relevantes de nuestra identidad, a la que hay que prestar atención singular, como rasgo de nuestra personalidad y como una seña de identidad que, desde hace siglos, nos identifica y distingue” (‘The Valencian language is one of the most relevant symbols of our identity. As such, we must take special

¹⁶ The *Estatut d'Autonomia* is a regional Constitution that constitutes the legal basis to govern the Valencian region. The *Estatut* occupies a supplementary position vis-à-vis the Spanish Constitution and cannot contradict it.

care of it since it is both one of our personality traits and a part of our identity that has identified and differentiated us for centuries') (PP 2023, 196). A noteworthy parallel emerges with Joan Fuster's depiction of the natural connection between the Catalan language and the identity of the Països Catalans. The use of terms like "personality traits," "identity," and "differentiated" underlines this naturalistic connection. Moreover, the text emphasizes the essential link between the Valencian language and Valencian identity through the phrase "for centuries," which conveys a sense of perpetuity. Yet the degree of exaltation of the Valencian language as representative of the Valencian identity is slightly less pronounced than Fuster's association between the Catalan language and the identity of Països Catalans. Thus, PP's electoral program describes the language as "one of the most relevant symbols of our identity" but refrains from proclaiming it as the most relevant. Nonetheless, the defense of Valencian as a distinct language requiring protection becomes more uncompromising when faced with the perceived threat of a uniform Catalan language encroaching upon the Valencian Region: "No consentiremos ninguna intromisión de otras lenguas cooficiales" ('We will not allow any other co-official language to interfere') (PP 2023, 31). Although the reference to the Catalan language is indirect, the implications are unmistakable clear: Catalan must not disrupt the natural connection between the Valencian language and the Valencian identity. Human agency should be channeled toward preserving this natural order.

Simultaneously, the use of the term *lengua valenciana* carries important linguistic and ideological implications. It aligns with the expression favored by Valencian linguistic secessionists, who advocate for the independence of the Valencian language from Catalan. This term is commonly employed by the so-called *blavers* ('the blue ones').¹⁷ This situation sheds light on the nomenclature of the Acadèmia Valenciana de la Llengua instead of Acadèmia de la

¹⁷ Blavers makes reference pejoratively to the supporters of Valencian linguistic secessionism (Bradley 2020, 172). The name refers to the specific blue section of the Valencian flag in comparison with the equivalent flag of Catalonia and the Autonomous Communities of Aragon and the Balearic Islands. For a masterful explanation of the linguistic and political ideology of *Blaverisme* see Flor (2012).

Llengua Valenciana (Bradley 2020, 91). The latter name would have posed considerable challenges for an institution committed to upholding the unity of the language spoken across all Catalan-speaking areas, including the Valencian region.¹⁸

In sum, PP's electoral program underlines its commitment to preserving the natural association between a distinct Valencian language and the Valencian identity. This stance is reinforced by emphasizing the unconstitutionality of the project of the Catalan Countries and by contesting the unity of the Catalan language. It is firmly asserted that public funds will not be allocated to projects that

persigan objetivos directamente contrarios a la Constitución, como la federación de territorios prohibida por el artículo 145, en particular, los inexistentes e inconstitucionales por algunos denominados Països Catalans . . . [y] menoscaben la autonomía de la Comunitat Valenciana en cuanto a la denominación de su territorio, bandera, himno y lengua propia que, según declara el Estatut d'Autonomia, es el valenciano." (PP 2023, 196)

[pursue objectives that go against the Constitution, such as any association of territories that is unreal and prohibited by the Constitution, like, for example, the so-called Catalan Countries . . . Moreover, public money will not be used for projects that diminish the autonomy of the Region of Valencia regarding the name of its territory, flag, anthem, and native language, which, as the Estatut d'Autonomia indicates, is Valencian.]

¹⁸ In the plenary session of 9 February 2005, the AVL established:

D'acord amb les aportacions més solvents de la romanística acumulades des del segle XIX fins a l'actualitat (estudis de gramàtica històrica, de dialectologia, de sintaxi, de lexicografia...), la llengua pròpia i històrica dels valencians, des del punt de vista de la filologia, és també la que compartixen les comunitats autònomes de Catalunya i de les Illes Balears i el Principat d'Andorra. Així mateix és la llengua històrica i pròpia d'altres territoris de l'antiga Corona d'Aragó (la franja oriental aragonesa, la ciutat sarda de l'Alguer i el departament francès dels Pirineus Orientals). Els diferents parlars de tots estos territoris constituïxen una llengua, és a dir, un mateix «sistema lingüístic». (Acadèmia Valenciana de la Llengua 2005)

In this instance, in contrast to the text of the agreement between PP and VOX mentioned in section 3, the initial letters of the expression Països Catalans are capitalized.¹⁹ However, the text of PP's electoral program intertwines the legal and essential or natural aspects of the issue. According to the program, the concept of the Catalan Countries runs counter to the Spanish Constitution as corroborated by article 145.²⁰ This legal basis amplifies the adjective "inexistentes" ('unreal' or 'fictional'), which suggests that the law substantiates the absence of a natural

[From a philological point of view, following the most reliable studies from Romance Linguistics since the 19th century (studies on historical grammar, dialectology, syntax, lexicography, etc.), the native and historical language of Valencians is the same as the one shared by the Autonomous Communities of Catalonia, Balearic Islands, and the Principality of Andorra. Furthermore, it is the native and historical language of other territories of the former Crown of Aragon (the Aragonese Franja de Ponent, the Sardinian city of l'Alguer, and the French Department of the Eastern Pyrenees). The different varieties of all these territories constitute the same language, that is, the same "linguistic system."]

¹⁹ In the text of the agreement it appears as "països catalans."

²⁰ Title VIII, chapter three, article 145 of the Spanish Constitution indicates:

1. En ningún caso se admitirá la federación de Comunidades Autónomas
2. Los Estatutos podrán prever los supuestos, requisitos y términos en que las Comunidades Autónomas podrán celebrar convenios entre sí para la gestión y prestación de servicios propios de las mismas, así como el carácter y efectos de la correspondiente comunicación a las Cortes Generales. En los demás supuestos, los acuerdos de cooperación entre las Comunidades Autónomas necesitarán la autorización de las Cortes Generales. (Spain. Cortes Generales 1978, article 145)

- [1. Under no circumstances will a federation of Autonomous Communities be accepted.
2. The Regional Constitutions may foresee the requirements and conditions under which the Autonomous Communities will be allowed to hold agreements among them to provide their own services provided that they follow the proper procedure to communicate such procedures to the General Courts [Senate and Congress]. In any other case, any agreement of cooperation between Autonomous Communities will require the authorization of the General Courts.]

As Bradley explains, "the new legal framework of Spain which is outlined in the Spanish Constitution of 1978 prohibits the formation of new federations between existing communities (article 145), most likely a preventative measure in light of the unstable and unpredictable political climate following the Francoist dictatorship" (2020, 69)

connection between the Catalan language and *Països Catalans*. The statement presents a double bind, as it positions the Constitution, a human construct, above the realm of nature. Thus, it could be argued that placing nature in a supplementary position may hinder universal acceptance. However, within the broader context of mutual respect for the Spanish Constitution, it can be perceived as a natural and unquestionable text that elucidates the lack of natural connections between Catalan and *Països Catalans*. Conversely, Valencian is posited as the natural or authentic language of the Valencian region, as stipulated in the *Estatut d'Autonomia*. The *Estatut* appears to adhere to the laws of nature, assuming a supplementary role. Yet, within the context of the entire passage, if Valencian is deemed the natural language of the Valencian region as per the *Estatut*, and the existence of *Països Catalans* is deemed illegal as per the Constitution, one could argue or infer that Valencian constitutes a distinct language.²¹

We must bear in mind that the foundation of the *Països Catalans* lies in the presence of a common language across all its territories—Catalan.²² However, it may be contended that this idea could pose complications within an electoral program. According to the *Estatut d'Autonomia de la Comunitat Valenciana*, the AVL is the official regulatory institution for the Valencian language (Spain. Corts Valencianes 2006, article 7). The AVL was established in 1998 by the Generalitat Valenciana, which at that time was governed by the PP. As I previously explained,²³

²¹ Vicent Flor has explained that there are two ways of associating language with a territory or nation. While for authors like Joan Fuster, language would be the most important criterion or point of departure to define a nation, for the Blavers and, in this case, in the electoral program of PP, the territory or people determine the language and the nation (Flor 2012, 139).

²² Joan F. Mira differentiates between the unity of the language and the unity of a nation ([1997] 2015, 250). According to him, the *Països Catalans*, where the Valencian region is included, is a plural and useful term that refers to territories that constituted and constitute a linguistic and cultural community and that currently have a cultural relationship and share certain interests. However, the *Països Catalans* are not a political nation (Mira [1997] 2015, 252–253). As Català Oltra explains, this idea corresponds to the so-called *quarta via* ('fourth way'), which is based on a civic rather than cultural (mainly linguistic) nationalism. This fourth way constitutes a left or center-left progressive revisionism of Fuster's ideas (Català Oltra 2014, 117). In this case, the electoral program of PP rejects the idea of a political unity called *Països Catalans* to deny the unity of the Catalan language.

²³ See note 18.

in 2005 the AVL acknowledged that Valencian was a diatopic variety of the Catalan language and officially affirmed the unity of the Catalan language (Bradley 2020, 89). We must bear in mind that, at that junction, PP was still in power in the Valencian Government and the AVL statement represented the position of the Generalitat Valenciana (Mas Castells 2012). However, the electoral program of PP for the municipal elections of 2023 assumed a more explicit stance regarding linguistic secessionism, indirectly opposing or questioning the role of the AVL:

Defenderemos el valenciano frente a quienes, dentro y fuera de la Comunitat, pretendan, como objetivo declarado, imponer la unidad, sumisión y supeditación externa de la lengua valenciana al catalán . . . Apoyaremos el uso, enseñanza y difusión de las particularidades propias, tradicionales y populares del idioma valenciano . . . Instaremos al gobierno de España e instituciones académicas a reconocer titulaciones de filología valenciana . . . Devolveremos la oficialidad de los títulos de valenciano de Lo Rat Penat.

[We will defend the Valencian language against those who inside or outside the region are willing to impose the unity, submission, and external subordination of the Valencian language to Catalan . . . We will support the use, teaching, and dissemination of the typical, traditional, and popular peculiarities of the Valencian language . . . We will urge the Spanish Government and the Academic institutions to acknowledge the title of Valencian Studies . . . We will consider the academic qualifications granted by *Lo Rat Penat* as officially valid.]

It is in this context that the reference to *Lo Rat Penat* in the electoral program may be understood. *Lo Rat Penat* or *Societat d'Amadors de les Glòries de València* ('Society of Lovers of the Valencian Glories') was established in 1878 as an organization to advance the study of the language. It played a pivotal role in the restoration of the *Jocs Florals* ('Poetic Contests') of the Valencian *Renaixença* in 1879 (Ferrando Francés 2018, 254). In the Valencian region *Lo Rat Penat* accepted the expansion of the normative rules established by the Philological Section of the Institut d'Estudis Catalans ('Institute of Catalan Studies') in Barcelona in the first half of the twentieth century. This codification of the Catalan language by means of a grammar, dictionary, and orthography had been officially accepted in the

Valencian region in the so-called *Normes de Castelló* ('Rules of Castelló,' 1932). Yet, around 1977, Lo Rat Penat began to veer towards secessionism.²⁴ Defending the officiality of the titles offered by Lo Rat Penat implies accepting an alternative codification of the language to the one established by the *Normes de Castelló*, which was officially accepted by the AVL in 2002. The alternative to this codification was written in 1979 and was supported by Lo Rat Penat (Bradley 2020, 89).²⁵

4. The agreement between PP and VOX: The construction of the Valencian identity as a palimpsest

I include here again the text of point three of the agreement:

Aprobaremos una ley de Señas de Identidad que proteja los valores y costumbres y tradiciones de la Comunidad Valenciana como parte esencial de la plural riqueza de España. Por ello, eliminaremos las subvenciones a las entidades o asociaciones que promuevan los "països Catalans." (La Vanguardia Barcelona 2023)

[We will pass a Signs of Identity Law to protect the values, customs, and traditions of the Valencian region as an essential part of the variety of the Spanish richness. Thus, we will eliminate any kind of subsidies to any entity or association that supports the "Catalan Countries."]

Apart from the lack of capitalization of the term *Països Catalans* that has been analyzed in section 3, two important discursive features appear in the

²⁴ See note 12.

²⁵ This alternative codification is known as *Normes del Puig* ('Puig Norms'). While they were completed in 1979, the *Normes del Puig* were officially presented in 1981. On 26 August 2023, the President of the Valencian Courts, Llanos Massó, who is a member of VOX, argued in a Spanish-language social media post that Valencian was a different language from Catalan and that the *Normes del Puig* constituted the true codification of the Valencian language. Massó's statement does not abide by article 41 of the Estatut of the Valencian region, which indicates that the AVL is the only official institution in charge of the codification of the Valencian language (Molín 2023).

text: Firstly, there is no direct reference to the issue of language, which is one of the main criteria on which the existence of the Països Catalans is based. Second, the whole agreement is written in Spanish except for the term “països catalans,” which appears in quotation marks and in Catalan. The absence of any reference to the issue of language can be interpreted as a rejection of cultural nationalism and a support of the anonymity of Spanish at the expense of the erasure of the authenticity of Valencian as representing the Valencian essence. In other words, the Valencian identity can be maintained without the need of linguistic markers by using cultural resources such as genealogies, music, rituals, visual art, etc. This implies a denial of a natural bond or organic connection between community and mother tongue, as Humboldt had argued (Cameron 2007, 278–280). Thus, the approval of “a Signs of Identity Act to protect the values, customs, and traditions of the Valencian region as an essential part of the variety of the Spanish richness” implies that Valencians can keep their cultural legacy, their culture, and traditions by using Spanish. The use of the expression “Spanish richness” as well as the absence of any reference to the Valencian language connotes that Spanish is an anonymous language that represents everyone, including Valencians with their traditions and legacy.

Out of the 50 points of the agreement, only one pertains to the two official languages. In the education section, point 27 stipulates that “garantizaremos la libertad de educación, la libre elección de centro y la libre elección de la lengua de enseñanza entre las dos oficiales en todas las etapas educativas” (‘we will guarantee freedom of education, freedom to choose the educational center and the language of education in all levels out of the two official languages’) (La Vanguardia Barcelona 2023). When we compare this agreement with the original electoral programs of both PP and VOX, we observe that point 27 aligns more closely with PP’s program, where the issue of co-officiality is explicitly addressed. In VOX’s program, there is a reference to linguistic freedom in education but no allusion whatsoever to Valencian or co-officiality. Moreover, VOX’s program sets as objectives to enforce Spanish as the common language of instruction in all educational levels, and eliminate Valencian as a language requirement for becoming a teacher or civil servant:

Garantizar la libertad educativa y lingüística y la calidad de la enseñanza sin intromisiones ideológicas. Garantizaremos que el español sea lengua vehicular en todas las etapas educativas, eliminaremos toda normativa que atente contra la igualdad educativa entre los menores en las escuelas y eliminaremos el valenciano como requisito en el acceso a plazas de profesorado y personal de la administración. Desalojaremos a los activistas y asesores lingüísticos de las aulas y reforzaremos la inspección educativa. (VOX 2023)

[(We intend to) guarantee educational and linguistic freedom as well as a solid education without ideological interference. We will guarantee that Spanish is the dominant language in all educational levels. We will eliminate any law that may hinder equality in education among young students and we will eliminate the Valencian language as a requirement to become a teacher or a civil servant. We will get rid of language activists and advisers.]

VOX's program seems more stringent in its stance compared to the conditions articulated by PP. However, when examining the text of the agreement forged between the two parties to govern the Valencian region, a conspicuous absence is the term Valencian language. Moreover, upon closer scrutiny of PP's program after reviewing the agreement, one can discern elements of compatibility: the importance attached to Valencian tradition, folklore, and culture as potential substitutes for language in representing the Valencian identity. Within PP's program, language is typically depicted as just one among numerous facets of Valencian identity. It can be inferred that all these elements contribute proportionally to the safeguarding of Valencian identity. Additionally, in instances where there is no direct or indirect allusion to the perceived Catalan threat, both Spanish and Valencian are placed on an equal footing as markers of the Valencian identity:

Los símbolos, como la Denominación, Bandera, Himno y Día de la Comunitat Valenciana; así como las dos lenguas, y sus usos, oficiales en este territorio, castellana o español y valenciana . . . la música, bandas, orquestas, coros y sociedades musicales, cant d'estil, folclore e instrumentos tradicionales valencianos . . . (PP 2023, 193–194)

[Symbols just as the name, the flag, the anthem, the Day of the Valencian region, as well as the two official languages and the way they are used: Castilian or Spanish and Valencian . . . the music, the bands, the orchestras, the choruses, the music societies, the *cant d'estil*, the folklore and traditional Valencian instruments . . .]

The text can be read as the Valencian language becoming just another element in representing Valencian identity. The Valencian language is presented as disposable because there are other cultural aspects of the Valencian culture and, most importantly, there is another language that also symbolizes Valencian identity: "Castilian or Spanish." The use of these two names implies that Spanish is perceived as both authentic and anonymous. It is seen as authentic because it can represent the essence of Valencian identity as Valencian music, folklore, and the Valencian language do. At the same time, the dual naming of the Spanish language suggests its anonymity, as it used to be the language of Castilians and now it is the language of all Spaniards, including Valencians. It is the language of no one and everyone at the same time.

Consequently, VOX's electoral program, the agreement between PP and VOX to govern the Valencian region, and the electoral program of PP can be read as the construction of the Valencian identity as the colonial other. This Valencian colonial other, with a lower-case letter, has an unstable identity that is constructed by the Castilian Other, with a capital letter. The origin of the distinction between the *other* and the *Other* can be found in Jacques Lacan's psychoanalytic analysis of the formation of subjectivity and has been used in post-colonial theory. The *other* refers to the colonized subject who is dependent, whereas the *Other* is the imperial center that establishes the terms according to which the colonized other(s) construct their identity (Ashcroft, Gareth & Tiffin 2007, 154–156). In this case colonialism is understood not only as a forceful imposition but as an ideology that is accepted by the colonized subject. The Valencian other is colonized, has an unstable identity, and constructs a vision of the world by gazing at the dominant imperial Other (Ashcroft, Gareth & Tiffin 2007, 155–156; Fuss 1994; Boons-Grafé 1992; Spivak 1985; Lacan 1968). Thus, the Castilian Other colonizes and constructs the identity of the Valencian other in a top-down manner, erasing the

presence of former colonial Others that may have previously contributed to the construction of Valencian identity.

From this point of view, the former colonial Other would have been Catalonia. Joan Fuster's advocacy for the *Països Catalans* may be read as the Valencian willingness to construct or recover Valencian identity by accepting the remnants of the colonization of the imperial Catalan Other, mainly the Catalan language, and building a future from these remnants. As a result, it can be argued that Valencian identity is akin to a piece of writing resembling a palimpsest, where a former text has been erased to make way for a new text. In this instance, the former text written in Catalan has been partly overwritten by a new Castilian text. The defenders of *Països Catalans*, such as Joan Fuster, advocate for the recovery of the original Catalan text by nurturing the Catalan language and recognizing that the true Valencian identity lies in their Catalan past, present, and future. VOX and PP's electoral programs can be interpreted as the complete erasure of the Catalan colonial text in the Valencian identity. This erasure of the Catalan text can be achieved by erasing the Valencian-Catalan language, elevating the anonymity of the Spanish language, and asserting that Valencian identity does not hinge on language, but on other aspects such as music, culture, folklore. These historical and traditional elements can be expressed in Spanish. Once the Catalan text is eradicated, Valencian identity will no longer be a palimpsest and the Valencian language will end up disappearing (see Ashcroft, Griffiths & Tiffin 2007, 158–160). Therefore, both PP's electoral program and the agreement between PP and VOX demonstrate that opposing the concept of *Països Catalans* does not necessarily entail exalting a separate Valencian language to represent the essence of a Valencian identity.²⁶

²⁶ With regards to preserving the Valencian identity, Mira considers that there is a clear Castilian danger, whereas the Catalan danger is absent. Being part of the linguistic and cultural community known as *Països Catalans* would help exalt and maintain a Valencian identity ([1997] 2015, 253–254). Flor explains that the project of linguistic secessionism not only has the goal of opposing pan-Catalan nationalism, but also avoids the revitalization of the Valencian language. Thus, Valencian nationalism in the form of linguistic secessionism will support the status of Spanish as the hegemonic language, disguised as a rewarding bilingualism (2012, 140–141).

5. Conclusion

This article has underscored the significant role of language ideology within the electoral programs of the Spanish municipal elections held in the Valencian region on 28 May 2023. Given its scope, the study has exclusively examined the programs of two political right-wing parties, namely PP and VOX. However, the same theoretical approach may readily be extended to the electoral programs of Partit Socialista del País Valencià, Compromís, and Unides Podem.²⁷

The analysis of the reference to Països Catalans in both PP's electoral program and the agreement between PP and VOX, has shown that according to these two political parties, there is a conflict between two potential anonymous languages, Castilian and Catalan, that compete to colonize the Valencian region. Valencian linguistic identity should be represented exclusively by Spanish so that the Valencian region may avoid the threat of the potential linguistic anonymity of the Catalan language, which may destroy Valencian linguistic authenticity represented by the Valencian language. Both political parties share the idea that Castilian is the language that will keep Valencian identity safe. However, the result of this approach entails Castilian monolingualism and the disappearance of the Valencian-Catalan language in the Valencian region. PP's initial defense of a separate Valencian language leads to a denial of cultural nationalism, based on an organic relationship between language and identity, and ultimately, to the disappearance of any language different from Castilian in the Valencian region. In other words, the electoral programs of both PP and VOX have the same objective: to erase the Valencian-Catalan text on the palimpsest of Valencian identity and overwrite it with one single text in Castilian.

Moreover, within this study I have analyzed the issues of linguistic authenticity and anonymity as ideological exemplars of sociolinguistic naturalism, in which

²⁷ For a masterful analysis of the language ideology of the different Valencian political left and center-left parties in 2014, although with a different theoretical approach and a different corpus see Català Oltra (2014).

the primacy of nature over human will in shaping identity becomes evident. Nonetheless, it would be worthwhile to explore how human will can assume precedence in choosing one's linguistic identity in the form of post-natural authenticity, regardless of the language of origin. In other words, new learners of Valencian-Catalan may consider this language as their own, even if it was not the first language that they learned. This approach holds particular promise, especially within the Spanish-speaking areas of the Valencian region, notably in the domains of education and mass media.

Woolard provided a valuable example in her analysis of Catalonia (Woolard, 2016), and Bradley has effectively examined the situation with education in the Valencian region (Bradley 2020). This emerging field of study presents a complex avenue for further exploration.

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To cite this article:

Mansi, Mennatallah. 2023. "Paratexts as gatekeepers in online global jihadist translation – The narrative of a blog-based Arabic translation of *Dabiq*." In "Ideologies and Language Rights Meet (and Clash)," edited by Rafael Castelló-Cogollos & Esther Monzó-Nebot. Special issue, *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* 2 (2): 189–225.
<https://doi.org/10.7203/Just.2.24872>.

Article received: 15/07/2022 Final version accepted: 29/09/2023



© 2023 JUST. JOURNAL OF LANGUAGE RIGHTS & MINORITIES, REVISTA DE DRETS LINGÜÍSTICS I MINORIES, VOL 2 (2), CÀTEDRA DE DRETS LINGÜÍSTICS – UNIVERSITAT DE VALÈNCIA. ISSN: 2952-2307

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Paratexts as gatekeepers in online global jihadist translation – The narrative of a blog-based Arabic translation of *Dabiq*

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Abstract

Translation has played a pivotal role in disseminating global jihadist propaganda online from the declaration of global jihad in the late 1990s to its recent manifestation in 2014 with the emergence of the so-called Islamic State in Iraq and Syria (ISIS). This paper contends that paratextual frames have a significant role in mediating the ideologically charged messages of global jihadist to diverse communities and when contexts change. The article investigates the gatekeeping function of paratexts within a blog-based Arabic translation of ISIS's English magazine *Dabiq* (AZIZ8178 2016a). Drawing upon narrativity (Somers & Gibson 1993; Bruner 1991; Baker 2006a), the translations published in a blog, AZIZ8178's are scrutinized to explore the paratextual interventions that frame translated narratives. The results pinpoint a deliberate selection of articles for translation that aligns with the shifting circumstances faced by ISIS on the ground. Moreover, AZIZ8178's Arabic version of *Dabiq* is shown to construct a narrative centered on identity, emphasizing internal conflicts and divisions within contemporary Arab communities. It is posited that AZIZ8178's paratexts familiarize ISIS radical doctrines within the sociopolitical fabric, potentially inciting fanaticism among the targeted Arabic-speaking audience. The visibility and autonomy of the translator become evident in the paratextual elements of signatures and footnotes, eliciting his jihadist stance.

Keywords: Jihadist translation, paratext, framing, gatekeeping, narrative theory, ISIS

1. Introduction

In 2014, the resurgence of the global jihadism threat was marked by the emergence of the self-branded Islamic State in Iraq and Syria (ISIS), an extremist faction branching off from *al-Qaeda*. This group declared the establishment of what they claimed to be an Islamic caliphate. The dissemination of ISIS's doctrines and positions across the world has heavily relied on multilingual online propaganda disseminated by media affiliates of ISIS or those ideologically aligned with the group. Scholarship across a variety of disciplines, including political science, geopolitics, security studies, and media and communication, has engaged in discussions regarding the digital propaganda campaigns of global jihadists (Torres, Jordán & Horsburgh 2006; Lia 2007; Lieberman 2017). Moreover, researchers (e.g., Gemeah 2016; Ingram 2018; Gatt 2020) have undertaken analyses of the linguistic and discursive features of global jihadist propaganda (texts, audio, visual), as well as the narratives they convey. Nevertheless, while global jihadists label translation as an integral part of their mission (Brachman 2009, 127), the role of translation in mediating their extremist ideology has received relatively limited attention within scholarly discussions.

While scholars (Hijjo & Kaur 2017; Bazzi 2019; Colas 2019; Hijjo & Almann 2022) have addressed translation within the context of global jihadism, their focus has been rather specific. Bazzi (2019), for instance, examined the use of transliteration in jihadist discourse, contending that Arabic Islamic terms are left deliberately non-translated in ISIS English propaganda due to their loaded political and historical significance (7). Colas (2019) argued that English translations of often-transliterated jihadist terms fail to convey the nuanced connotations understood and experienced by jihadist groups. Using dynamic equivalence, he proposed redefinitions for ten jihadi concepts, laying the groundwork for a comprehensive lexicon of jihadist terms. On the other hand, Hijjo and Kaur (2017) and Hijjo and Almann (2022) elucidated the paratextual and textual reframing that takes place in the English media translation of Arabic editorials concerning *Daesh* (ISIS). However, a notable gap exists in the literature regarding online jihadist translation practices. This gap encompasses the agency of translators in advancing the jihadist ideology, their criteria for selecting articles for translation

across languages, and how they frame jihadist material, factoring in the cultural nuances of each target language. This paper seeks to contribute to the extant literature by investigating a case of online jihadist translation: the translation of ISIS's prominent English magazine *Dabiq* (Clarion Project n.d.) into Arabic. It aims to provide a closer examination of how paratextual frames authored by translators play a role in mediating ISIS's radical beliefs to Arabic-speaking communities.

Dabiq, an electronic magazine published originally in English by the ISIS media affiliate *al-Hayāt* (2014–2016), addresses a global audience. It holds significance not only for introducing the new face of global jihad (ISIS), distinct from the founding group al-Qaeda (as discussed in detail in section 2), but also for its launch coinciding with the declaration of an alleged Islamic caliphate in Syria and Iraq in 2014. The English electronic magazine serves as a key propaganda tool for ISIS, disseminating articles on the principles and laws applied within its purported caliphate, the beliefs and doctrines embraced by its members, as well as detailing the attacks and targets of this extremist group. All of this is grounded in the radical ideological conceptualization of Islam adopted by the group, which challenges the moderate concepts endorsed by established mainstream Islamic religious institutions (as observed by the Al-Azhar Observatory for Combating Extremism n.d.). To lend authenticity and legitimacy to its radical ideology, *Dabiq* selectively employs fragments of Islamic scripture and tradition without contextualization (Toguslu 2019, 101). Jacoby (2019) outlined *Dabiq*'s cherry-picking of Quranic verses, its focus on a limited selection of classical Islamic scholars, and its denunciation of all contemporary religious authorities. Such fragmentation and selectivity give rise to understandings that contradict established interpretations (*tafsir*) of Islamic texts, framing ISIS's version of Islam as the only valid one. Regarding the selective use of the Arabo-Islamic tradition in ISIS discourse, Gatt (2020, 15) suggests that the "selective reconstruction of intertextualities, religious citations, and historical references" arguably legitimizes ISIS's existence and *modus operandi*.

In mid 2016, an online blog named *AZIZ8178* (2016a) emerged, publishing Arabic translations of a selection (61 articles) of *Dabiq* English issues. These translations, aside from the blog, have been disseminated through various online channels,

including social media platforms and free content-sharing websites. This paper contends that the paratexts of *AZIZ8178* embody gatekeeping practices for *Dabiq*'s content, enacted by their translator into Arabic. The paratextual elements are identified based on Gerard Genette's (1997) concept of paratextuality, encompassing any peritextual or epitextual element influencing the perception of the text. *AZIZ8178*'s paratexts introduce ISIS's radical beliefs and doctrines in new frames designed to resonate with contemporary Arab communities at the time of posting the translations. Additionally, it is posited that these paratextual translational interventions shed light on the agency and autonomy of the jihadist translator(s) involved.

A descriptive qualitative analysis of the paratextual elements is conducted, aligning with the four defining features of narrativity from a sociological perspective (Somers & Gibson 1993; Bruner 1991; Baker 2006a). This analysis aims to address the main research question (M-RQ): How do the paratexts of *AZIZ8178*'s online translations of *Dabiq* reframe the mediated jihadist narratives for the Arabic-speaking audiences? Four sub-research questions (S-RQ) are explored in response to the central inquiry: How did the temporal and spatial configuration of the blog posts contribute to reframing the Arabic translations (S-RQ1)? How did the Arabic-language paratexts (re)prioritize and (re)organize the contents of the English magazine (S-RQ2)? What kind of alterations resulted from the paratextual interventions in terms of the plot narrated in Arabic compared to the English magazine (S-RQ3)? Given the active role played by jihadist translators in promoting the jihadist ideology, what are the paratexts that signify the positioning of the translator(s) in *AZIZ8178* blog (S-RQ4)?

The paper commences with a contextualization of the case study, providing an overview of global jihadism concerning agents, online propaganda, and multilingualism (section 2). Then, it proceeds to outline the theoretical framework and methods employed, including a review of the socio-narrative theory in translation studies and the concept of (re)framing (section 3). Finally, the paper analyzes the paratexts accompanying *AZIZ8178*'s Arabic translations of *Dabiq*, examining how they (re)frame the mediated narratives (section 4). The paper concludes by summarizing the findings from the analysis of the paratexts,

acknowledging the limitations and discussing future research opportunities within this domain.

2. Global jihadism: Agents, online propaganda, and multilingualism

Linguistically, the Arabic word *jihād* is derived from the root *jhd* and “means to strive, to exert oneself, to struggle . . . an endeavor towards a praiseworthy aim” (Peters 2016, 1). In classical Islamic literature, there are two types of jihad: the *smaller* jihad pertaining to armed combat or the use of force against adversaries, and the greater jihad involving the inner struggle against one’s evil inclinations (*al-nafs*) (2016, 1).

Over the centuries, the concept of jihad, particularly in its martial form, has evolved from early Islam to premodern and modern eras. Consequently, the term has undergone redefinitions and reinterpretations, adapting to contemporary socio-political contexts. In this paper, *jihadism* “refers to a certain form of Islamic social movement—deterritorialized and loosely connected through an ideology—that employs a heterodox form of jihad as a mean to fight secular democratic influences and to assert fundamentalists beliefs” (Armborst 2009, 51–52). Key terms in this definition include “Islamic social movement,” “heterodox form of jihad,” and “fundamentalist.” The first indicates the presence of an ideological agenda seeking social or political transformation, grounded in an assumed connection with Islamic principles, particularly jihad. However, the form of jihad embraced is heterodox, deviating from the classical mainstream conception of jihad and adopting a rather fundamentalist stance—signifying the third key word in this definition—that limits jihad to fight or violence. Extremist groups following this radical or militant interpretation of jihad began to emerge in the late 1970s, adopting principles and doctrines rooted in the legacy of ideologues such as Sayyid Qutb, Mohammed Faraj, and Abdallah Azzam (Armborst 2009, 52).

Adopting this same fundamentalist ideology, al-Qaeda founder Osama Bin Laden declared global jihad in the late 1990s by issuing a “declaration of war against Christians and Jews throughout the world” (Rubin & Rubin 2008, 269).

This jihadist current conceptualizes jihad as “the physical, violent form of struggle, to resist what they see as cultural, economic, military, and political assaults from outside the ummah [the Islamic Nation] and oppression and injustice within” (Knapp 2013, 93). Global jihad marked a significant shift in jihadist objectives: (1) the reorientation of the traditional Salafi conception of jihad, which once aligned with the West, particularly the United States, against Soviet communism and secular Arab nationalism, to antagonism with the West; (2) the transition from focusing on the near enemy to targeting the far enemy; and (3) the expansion of their operational scope from a localized theater to a global arena (International Crisis Group 2005, 16).

The use of multilingual propaganda has been pivotal in advancing and disseminating the global jihadist ideology. With the advent of modern information and communication technologies, global jihadists have engaged in various forms of online militaristic practices, what Bunt (2003) labelled *e-jihad* or the digital sword. These practices encompass activities such as hacking, propagandizing specific worldviews, and utilizing technological tools for logistics and strategic intelligence (Bunt 2003, 26). Over time, global jihadist web media arms have transitioned from hierarchical organizational structures to autonomous networks and voluntary anonymous sympathizers (Lia 2007, 2). The internet has provided them with an unregulated and boundless platform to “craft and disseminate propaganda through seemingly limitless numbers of websites and social media platforms” (Lieberman 2017, 95). These online mediums “were useful not only in terms of recruitment and for the purpose of internal consumption . . . but could be used to transmit a version of events different from that offered by the mass media from the other side of the battlefield” (Torres, Jordán & Horsburgh 2006, 412).

As part of their propaganda campaigns, various global jihadist leaders and affiliated media outlets have called for participation in translation practices. The acquisition of language skills and recruitment of jihadist translators has been deemed essential by jihadist leaders for the success of global jihadist propaganda. For instance, in his call to establish a unified Global Islamic Media Front (GIMF) in 2004, Ahmed al-Wathiq Billah listed language skills and translation teams among the qualities and types of people needed for creating such front,

stating: “[t]hose with language skills who can form Jihadi translation teams and help the Global Islamic Media Front to reach more people in more languages” (qtd. in Brachman 2009, 127). The importance of translation in global jihadist propaganda is further underlined in an essay authored by Gharib al-Diyar, another jihadist propagandist who is likely associated with GIMF (qtd. in Brachman 2009, 135). This essay, entitled “The Media Sword Campaign: How Can I Participate? What Can I Do? And What Is My Role?,” encourages “anyone with language skills to help provide translation services” (135–136). Jihadist translations have been undertaken collectively or individually by jihadist propaganda channels (such as al-Qaeda affiliated *al-Sahāb*, *Ansār Al-Mujāhideen* English Forum (AMEF), *Fursān el-Balāgh*) or by independent agents (including sympathizers and supporters). These efforts have resulted in the dissemination of jihadist material in numerous languages, including English, German, Urdu, French, Russian, Pashto, Arabic, and Turkish.

Amid the socio-political landscape following the Iraq war (2003–2011) and the uncertainty prevailing in the wake of the Arab Spring (2010–2011), a new, more aggressive face of global jihad appeared in 2014 with the rise of the Islamic State in Iraq and Syria/Levant (ISIL or ISIS, as commonly known in foreign media, or *Dā’sh*, as known in Arabic)—a splinter group of al-Qaeda. In contrast to the decentralized revolutionary approach of al-Qaeda, ISIS adopted a State-building strategy that relied on brutal acts of violence and expanded its list of adversaries to include external forces and internal entities, even Muslim groups and regimes (Arosoaie 2015; Gemeah 2016; Wright 2016). On the front of online propaganda, ISIS represents the third generation of the global jihad movement, utilizing cutting-edge communications technology, including websites and social media accounts, and employing media production with cinematic effects. Additionally, they have leveraged various languages to disseminate their message (Lieberman 2017, 104). ISIS-affiliated and aligned online media channels (such as *al-Hayāt*, *al-Furqān*, *al-I’tisam*, *al-Ajnād*, *al-Battār*, *A’māq*), as well as its members and sympathizers, have played a significant role in disseminating multilingual content (videos, audios, digital magazines, and songs/*nashīds*), through various social media platforms, such as Twitter, Facebook, YouTube, Telegram, and Tumblr (El-Araby 2016; Site Intelligence Group 2011). These media arms have broadcasted

and published content in nearly 35 languages, as reported by the US-based independent research organization Wilson Center in 2016 (Wright 2016, 16–17).

One of the most influential propaganda publications of ISIS is the English-language magazine *Dabiq*—a focal point of investigation in this paper. Replacing earlier, shorter, and more informal publications (ISN,¹ ISR²), *Dabiq* was first published by *al-Hayāt* Media Center, in Ramadan 1435 (July 2014) (Haršányová & Hrušovský 2017, 7)—immediately following the declaration of the Islamic caliphate by Abu Bakr al-Baghdadi³ in June 2014. The propaganda magazine serves as a primary source for understanding ISIS’s ideology, strategies, doctrines, adversaries, and operations. It also plays a pivotal role in recruiting foreign combatants and inflaming hostilities, including incitements to violence against fellow Muslims. The significance of the name of the magazine and its core aims were explicitly articulated in its inaugural issue as follows:

After a review of some of the comments received on the first issues of Islamic State News and Islamic State Report, AlHayat Media Center decided to carry on the effort – in sha’allah – into a periodical magazine focusing on issues of tawhid, manhaj, hijrah, jihad, and jama’ah.

It will also contain photo reports, current events, and informative articles on matters related to the Islamic State . . .

As for the name of the magazine, then it is taken from the area named *Dabiq* in the northern countryside of Halab (Aleppo) in Sham. This place was mentioned in a Hadīth describing some of the events of the Malahim (what is sometimes referred to as Armageddon in English). One of the greatest battles between the Muslims and the crusaders will take place near *Dabiq*. (*Dabiq*, issue 1, 3)

¹ Islamic State News (ISN): three short issues published by ISIS in Shaban 1435 (June 2014) covering mainly military operations (Ingram 2018, 6–7).

² Islamic State Report (ISR): followed ISN. Four ISR issues were published in Shaban 1435 (June 2014) featuring “more detailed reporting” and extending coverage to include not only operations in the field, but also “strategic, operational and jurisprudential logic driving them” (Ingram 2018, 8).

³ Abu Bakr al-Baghdadi: born in Iraq under name Ibrahim Awwad Ibrahim al-Badri, declared as ISIS’s Caliph in June 2014, previously served as Emir of Islamic State in Iraq, an offshoot of al-Qaeda, and founder of Jamaat Jaysh Ahl al-Sunnah wa-l-Jamaah (Counter Extremism Project n.d.).

The title *Dabiq* holds a symbolic significance, referring to the Syrian town where, according to one of Prophet Muhammad's sayings, the ultimate apocalyptic battle will unfold (*Hadīth*). Additionally, this location carries historical significance as it was the site of a significant Ottomans victory over the Mamluks in 1516, a victory that paved the way for the Ottoman Empire's expansion into Arab territories (Dar Al-Ifta n.d.). The choice of this name for the magazine serves as a deliberate linguistic tool employed by ISIS to assert its authenticity and historical entitlement to establish and lead its purported Islamic caliphate.

Dabiq magazine, comprising 15 issues with page counts ranging from approximately 40 to 80 pages each, was published between Ramadan 1435 (July 2014) and Shawwal 437 (July 2016). These issues covered various phases of the group's history, spanning "from the announcement of its so-called caliphate and the zenith of its territorial gains through a period of ultimately devastating resource, personnel and territorial losses" (Ingram 2018, 12). The magazine was primarily disseminated through social media, web forums, blogs, and free filesharing platforms.⁴ In addition to the English editions of the magazine, certain issues of *Dabiq* were published in other languages such as Arabic, German, Russian, and French, either by *alHayāt* Media Centre or other ISIS-affiliated channels.

Notably, at least three issues of *Dabiq* (specifically 4, 5, and 6) were released in Arabic in late 2014 and 2015 by the ISIS-aligned media arm known as the *al-Battār* Media Foundation. Nevertheless, various online jihadist collectives or individuals took an interest in translating the magazine's articles into Arabic. One such online translation effort, *AZIZ8178* blog's Arabic translations of *Dabiq*, is the focus of investigation in this paper. *AZIZ8178* presents a curated selection and translation of *Dabiq* articles into Arabic, featuring new framing and altered prioritization. This case study is particularly noteworthy due to its relevance in

⁴ The English version of *Dabiq* was also offered for sale in Amazon online stores between May and June 2015, but was then suspended after the retailer removed the content from its website (Masi 2015).

shedding light on the gatekeeping role of paratexts in mediating the jihadist message. Additionally, the study of this case offers insights into the distinctions between structured and autonomous jihadist media/translation networks, a topic previously explored by Lia (2007).

Section 3 below offers a discussion of the theoretical framework used for the analysis of the case study selected.

3. Reframing narratives in translation

The socio-narrative theory (Somers & Gibson 1993; Bruner 1991; Baker 2006a, 2007, 2013, 2014; Harding 2013) provides a robust framework for understanding translation within the context of power dynamics and conflicts. From a sociological perspective, narratives serve as the fundamental building blocks of comprehending the world, as they not only represent but actively shape our understanding of reality (Bruner 1991, 5). Narratives, in essence, are stories that construct our identities, guide our interpretation of events, and influence our actions (Somers & Gibson 1993, 2). In this light, translation is viewed as a narrative process that constructs and makes reality accessible in a different language (Baker 2014, 159). Through the acts of narrating and re-narration, translation becomes not merely a reproduction of texts but a means of crafting cultural encounters (Baker 2013, 23–24). Elliott (2012) underscores that each translational act either silences or vocalizes a certain narrative, thus placing the inevitable responsibility on the shoulders of the translator, an agent who must navigate between different narratives (45). Harding (2013) highlights the relevance of applying the socio-narrative approach in translation studies, especially in contexts involving power dynamics and social or political conflicts. According to Harding (2013), this approach posits that any textual or linguistic unit is intricately intertwined with its social and political context, and examining it within such a context unveils power relations and contestations among the parties involved (107). In contemporary social and political conflicts, translation is recognized as “central to the ability of all parties to legitimize their version of events” (Baker 2006a, 1).

Somers and Gibson (1993) categorized narratives into four types: ontological, public, conceptual, and meta. Ontological or personal narratives are the stories employed to make sense of oneself and define one's identities (30). Public narratives extend beyond individuals to encompass larger entities (such as groups, institutions, organizations, nations, governments) (31). Conceptual narratives are the constructs and explanations developed by researchers and scholars, such as Darwinism or clash of civilizations (Somers & Gibson 1993, 32; Baker 2006a, 39–40). Meanwhile, meta or master narratives transcend geographical boundaries, exemplified by concepts like capitalism, the rise of nationalism, Islamism, or terrorism (Somers & Gibson 1993, 32; Baker 2006a: 44–45). Translation and interpretation play a pivotal role in the propagation or contestation of these diverse narrative types. As Baker asserts, “[c]learly narratives do not travel across linguistic and cultural boundaries and do not develop into global meta narrative without the direct involvement of translators and interpreters” (2006b, 467). Translation is of great value in this movement of narratives from personal to public, then to meta or master, facilitating the mobility of narratives across different circles within the same community or on a global scale. This typology was further refined by scholars such as Boéri (2009) and Harding (2012). They introduced two additional categories: respectively, professional narratives (distinguishing between professional and non-professional accounts) and local narratives (pertaining to specific events, individuals, times, and places).

Beyond the dissemination of narratives, translation also participates in (re)framing mediated narratives. Hermans, Harding, and Boéri (2022) define framing as one of the active processes of “re-arranging and reorienting texts so as to fit them out for their new environments” (18), thus recontextualizing the mediated messages. Baker (2006a) characterizes framing “as an active strategy that implies agency and by means of which we consciously participate in the construction of reality” (106), which is synonymous with the construction of narrative, as discussed earlier in this section. Translators can, through their choices and interventions, reframe mediated narratives, resulting in the creation of a new reality or narrative distinct from the source text. While overt textual interventions may be “relatively rare,” translators employ various strategies,

including “the selection of material to be translated and . . . various methods of framing the translation including paratexts, timing of the release of translations, where translations are placed and so forth” (Baker 2006b, 476–477). Baker (2007) highlights the significance of paratexts in reframing the translated narratives, arguing that paratextual devices create frames that contextualize the narrative they surround, setting up “an interpretive context for the reader or hearer” (158). A frame for a narrative, similar to a frame for a photograph, influences how it is experienced and interpreted (Baker 2010, 353).

Socio-narrative features, as defined and explained in Baker (2006a) based on the work of Somers and Gibson (1993) and Bruner (1991), offer a set of analytical tools for scrutinizing how translational choices reframe mediated narratives. These features enable the study of explicit or implicit interventions made by translators and their impact on reinforcing or subverting source narratives. For the analytical purposes of this paper, the four defining features of narrativity (temporality, relationality of parts, causal emplotment, and selective appropriation) are outlined below.

- *Temporality*. Temporality encompasses three aspects: the sequential context of a given narrative, historical references to recognized narratives, and temporal and spatial framing (Baker 2006a, 51, 55, 112). Narrative and history are intertwined, and Hermans, Harding and Boéri (2022) suggest that some narratives gain acceptance based on factors such as recognition and resonance (23). References to recognized historical narratives—like the Islamic Caliphate in pertinence to the subject of this paper—lend momentum and credibility to the mediated narratives. Moreover, Sadler (2018, 3273) pinpoints that the temporally and spatially specific events are basic to the understanding of a narrative. This implies that paratextual elements like the translation’s date and place, as well as the contemporary socio-political context, contribute to our comprehension of the mediated narrative.

- *Relationality*. The second feature indicates that isolated events derive meaning only when viewed in relation to the overarching narrative in which

they are embedded (Baker 2006a, 61). Individual elements can only be fully understood within the context of their larger wholes (Sadler 2018, 3269). Another critical aspect of a given narrative's relationality involves the positioning of participants. Baker (2006a) contends that repositioning participants, whether textually or paratextually, reframes the translated narrative and impacts its relationship to broader narratives (132).

- *Causal emplotment*. Causal links—the third feature of narrativity—“explain how situations came to be and project what their implications will be” (Sadler 2018, 3269). This feature examines the weighing and explanation of events in relation to one another (Baker 2006a, 67), which can be altered through translation. Hermans, Harding, and Boéri (2022) propose the term “causation,” rather than *causality*, since the former accounts for a complex chain of causes, rather than “a cause-and effect pattern,” with focus more on the question of *how*, instead of *why* (28–30).

- *Selective appropriation*. The fourth and final feature of narrativity discussed herein is selective appropriation. Baker (2006a) defines this feature as the inclusion or exclusion of certain elements in a narrative based on different factors (time, space, people, values, etc.) (71–72). On the paratextual level, this selectivity can manifest in the inclusion or exclusion of texts, authors, languages, or cultures to be translated (114).

The agency of the global jihadist translator and the gatekeeping role of paratexts are examined within the framework of the theoretical framework discussed above. The four defining features of narrativity are employed as main methods to examine the paratextual framing of the case study—AZIZ8178's Arabic version of *Dabiq*. Moreover, the analysis elucidates how the reframed mediated narratives operate within the contemporary sociopolitical context of contemporary Arab communities, as expounded in section 4.

4. AZIZ8178's Arabic translations of *Dabiq* — Paratextual frames

The AZIZ8178 blog, launched in mid-2016, undertook the translation and publication of several *Dabiq* English articles into Arabic. This translation initiative, hosted on WordPress, was spearheaded by Abdulaziz Shamr, also known as Aziz Shamr. Shamr's work comprised four posts of *Dabiq* Arabic translations, all published between May and June 2016. This study is concerned with the last post (AZIZ8178 2016a), which was released on June 29, 2016, and encompasses all the articles translated and posted by Shamr in the order they appeared on the blog.

In this final post, Shamr published Arabic translations of 61 articles from various issues of *Dabiq* sequenced randomly regardless of the issue dates of the English sources. The format chosen for posting the translations included the title of each article in Arabic, a poster representing it, and a link directing readers to the full Arabic text hosted on Tumblr. The primary sources (*Dabiq* issues and AZIZ8178's translations) were accessed online by the author of this paper in mid 2017–early 2018. A word of caution must be noted, as they may no longer be accessible due to intensified security measures targeting jihadist content on the internet.

Taking a socio-narrative lens, this selected case study is scrutinized through the paratexts in order to explore how narratives in the Arabic version (AZIZ8178's translations) are framed compared to the English version (*Dabiq* magazine issues). To define paratextual elements, this paper adopts Gerard Genette's (1997) concept of paratextuality, encompassing titles, prefaces, interviews, illustrations, typographical choices, as well as factual elements such as the author's age, sex, awards, the work's date, genre, or other "implicit contexts," whether they are authorial, generic, or historical (7).

Batchelor (2018) further explains Genette's concept of paratextuality as "any element which conveys comment on the text, or presents the text to readers, or influences how the text is received . . . [they] may be physically attached to the text (peritext) or may be separate from it (epitext)" (12). The paratextual elements in AZIZ8178's translations of *Dabiq* are scrutinized using primarily the tools of narrative features, with secondary reference to narrative typology (discussed in section 3). It should be recalled that organizational Arabic translations of at least three issues of *Dabiq* (4, 5, 6) were issued in late 2014 and 2015, by *al-Battār* Media

Foundation, an ISIS-aligned media channel. Hence, the examination makes use of a comparison between *AZIZ8178* and *al-Battār* to discuss the distinct positionings of jihadist translators, distinguishing between autonomous and organizational translators, as introduced by Lia (2007).

To address S-RQ1, the first analytical tool deployed in the analysis is the narrative feature of temporality. The epitextual element of the work's date defines a new temporal configuration for *Dabiq* narratives in Arabic. All *AZIZ8178* blog posts containing links to Arabic translations of *Dabiq* articles date back to mid-2016 (see figure 1). In contrast, the first issue of English *Dabiq* was published in July 2014, with the last issue released in September 2016. Accordingly, Shamr's Arabic translations were posted on the blog almost two years after the English magazine's inception and only months before its publication ceased. This newly framed temporal configuration coincided with ISIS's significant territorial losses, along with key figures and fighters, due to intensified counter-operations led by the US-led coalition and local governments. These counter-operations were mainly conducted by Iraqi and Syrian forces and US-led coalition. By the end of 2016, ISIS had lost 43% of its territorial caliphate in Iraq and Syria (Wright 2016, 12). During this period, the focus shifted more toward "attacks at home" rather than individuals traveling to join the caliphate (*hijra*) (Chulov 2019). It should be noted also that Shamr's publication of *Dabiq* translations came after the distribution of at least three issues (4, 5, 6) of *Dabiq* in Arabic by the ISIS-aligned *al-Battār* media in late 2014 and 2015, a time that witnessed the peak of ISIS's influence.

Posted on June 12, 2016 by azizshamr

مجلة دابق - العدد 14 الإخوان المرتدون

على مدى العقود القليلة الماضية، ظهر سرطان مدمر،
وتطور، وانتشر في محاولة ليغرق الأمة بأكملها في الردة.
مع بداية نشأته في مدينة مصرية عام 1928م، سرعان ما
امتد إلى جميع أنحاء مصر ليصل إلى الشام، والعراق،

الرافضة: من ابن سبأ إلى الدجال - دابق العدد 13

Posted on May 26, 2016 by azizshamr

الرافضة واليهود

قال التابعي عمر الشعبي رحمه الله "المتوفى في 104هـ":
(أحذرك الأهواء المضلة، وشربها الرافضة، فإنها يهود هذه
الأمة، يبغيضون الإسلام، كما يبغيض اليهود النصرانية،
ولم يدخلوا في الإسلام رغبة ولا رهبة من الله، ولكن مقنناً

ترجمة مجموعة من مقالات مجلة دابق

Posted on June 12, 2016 by azizshamir

مُلاحظة: البوست يُحدَّث دورياً

مِن النفاق إلى الرِّدة: اندثار المنطقة الرمادية -

العدد 7



ترجمة مجموعة من مقالات مجلة دابق

Posted on June 29, 2016 by azizshamir

مُلاحظة: البوست يُحدَّث دورياً

الإخوان المُرتدّون - العدد 14



Figure 1. Temporal configuration – AZIZ8178 translations posted two years after *Dabiq*'s first release

Furthermore, the socio-political landscape in mid-2016, coinciding with the release of AZIZ8178's translations, painted the MENA region as a fertile ground for active or potential jihadists targeted by jihadist propaganda. During this period, various Arab countries (Libya, Syria, Iraq, Yemen, Lebanon) grappled with turmoil, aggression, and civil conflicts stemming from the aftermath of the Arab Spring wave. Fraihat and Yaseen (2020) assert that in the post-Arab Spring era, the region witnessed the emergence of distressing trends such as widespread violence, armed conflicts, proxies, sectarian politics, terrorism, and mass migration. According to Global Terrorism Database (2022), the number of terrorist attacks surged in the MENA region between 2012 and 2017.

Against this backdrop, AZIZ8178's endeavor, within this specific temporal configuration, can be read—from the lens of Baker's (2006a, 2007) work on translation and conflict and Bunt's (2003) on e-jihad—as a means to support the jihadist group and reach out to Arab jihadists, sympathizers, or potential recruits. This effort can be viewed as a manifestation of leveraging translation skills to disseminate ISIS ideologies and bolster the group's position during a temporal configuration when it faced considerable challenges on the ground.

AZIZ8178's Arabic translations of *Dabiq* also tend to redefine the spatial configuration of the mediated narratives, shifting from a transnational focus to a more Arab-centric perspective. The English magazine primarily addresses transnational communities, encompassing both supporters (ISIS recruits, weak, or confused members) and adversaries (the West and US-led global coalition, Shiite, Muslim apostate regimes, rival jihadist groups) (Ingram 2018, 14; Droogan & Peattie 2017, 617; Colas 2017, 178–180). In contrast, *AZIZ8178*'s translations reconfigure the spatial configuration to center on Arab communities. This transformation becomes more evident when comparing the titles presented in the blog post with those of the *Dabiq* issues. To ascertain this shift, a search was conducted for occurrences of three key words associated with the Arab region: "شام" ('Sham/levant'), "إسلام" ('Islam') and "الدولة/الخلافة" ('Islamic State'/Dawla/Khilafa). The results revealed multiple occurrences of these three words were found in *AZIZ8178*'s Arabic version, whereas the English version contained either zero or one occurrence of these terms, as illustrated in figure 2 below. These terms not only signify a spatial orientation toward the Arab region but also underscore historical references to the revered Caliphate from the Islamic golden age. This new temporal and spatial configuration, discussed above, necessitates additional paratextual framing, which contributes to the production of an appropriated version of *Dabiq* in Arabic, as elaborated further in the analysis.

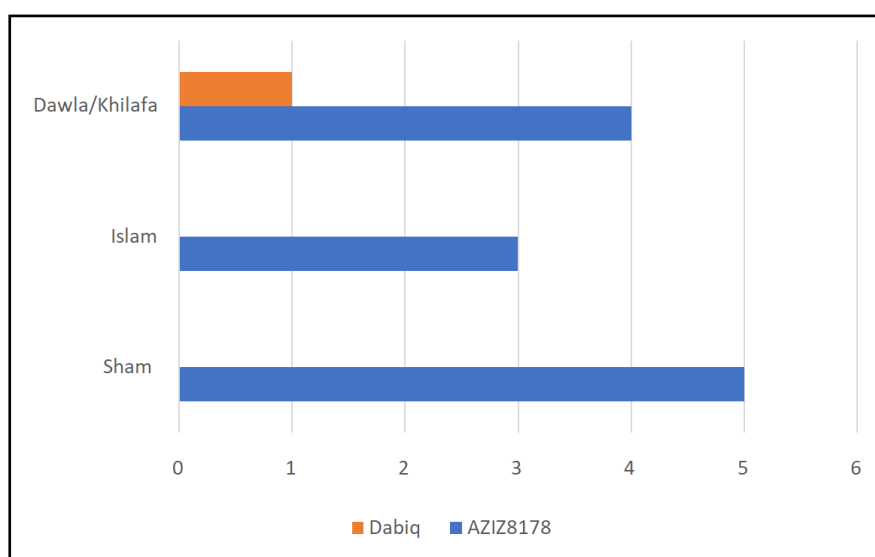


Figure 2. Spatial configuration – Occurrences of key words

To address S-RQ2, the second analytical tool used to scrutinize *AZIZ8178*'s paratextual elements was selective appropriation. This narrativity feature, as outlined in the previous section, pertains to the inclusion or exclusion of elements in the translated narratives, when compared to the English version. Within this framework, selective appropriation is explored alongside sequencing, a closely related aspect of temporality that deals with the order in which the narrative is presented (Baker 2006a, 52).

Selectivity and sequencing of the articles translated are major paratextual gatekeeping mechanisms that filter the content of *Dabiq* for the Arabic-speaking audience. A total of 290 articles were published in the fifteen issues of the English version of *Dabiq* (Wignell et al. 2017, 18). Out of this comprehensive collection, only 61 articles were translated and posted on *AZIZ8178* in Arabic. To provide a more accurate representation, the fourteen articles published in issue 15 —published in September 2016, months after *AZIZ8178* ceased publishing new posts— are excluded from the total for the English-version magazine. Consequently, the translated articles constitute approximately 22% of the total content. These selected translated articles were published on *AZIZ8178* in one single post dated 29 June 2016, forming a collection arranged in a vertical order that does not adhere to a chronological or issue-specific sequence.

Moreover, most of the translated articles belong to the most recent issues of *Dabiq* (issue 7 and above), as depicted in figure 3. The blog post itself serves as a distinct publication featuring selected articles from various *Dabiq* issues rendered into Arabic. This collection is sequenced differently from the English magazine, and also diverges from the approach taken by *al-Battār*'s Arabic translations, which adhered to the structure and format of the English version.

It may be surmised that the earlier *al-Battār* translations of *Dabiq* issues 4, 5, and 6 may have influenced *AZIZ8178*'s focus on later issues. Nonetheless, this emphasis on later issues could also be attributed to the fact that *Dabiq* underwent a notable transformation starting from issue 7. From this point onward, the magazine featured more in-depth articles and introduced additional sections (Ingram 2018, 11–13). Another interesting point is that issue 14 contained the highest number of translated articles, followed by three other

issues (9, 11, and 12). The prominence of these four issues in terms of translated articles corresponds to the 4th phase of *Dabiq*'s thematic focus shift, which emphasized the near enemy and conflicts with local outgroups, including other jihadist organizations (Droogan & Peattie 2017, 614–615).

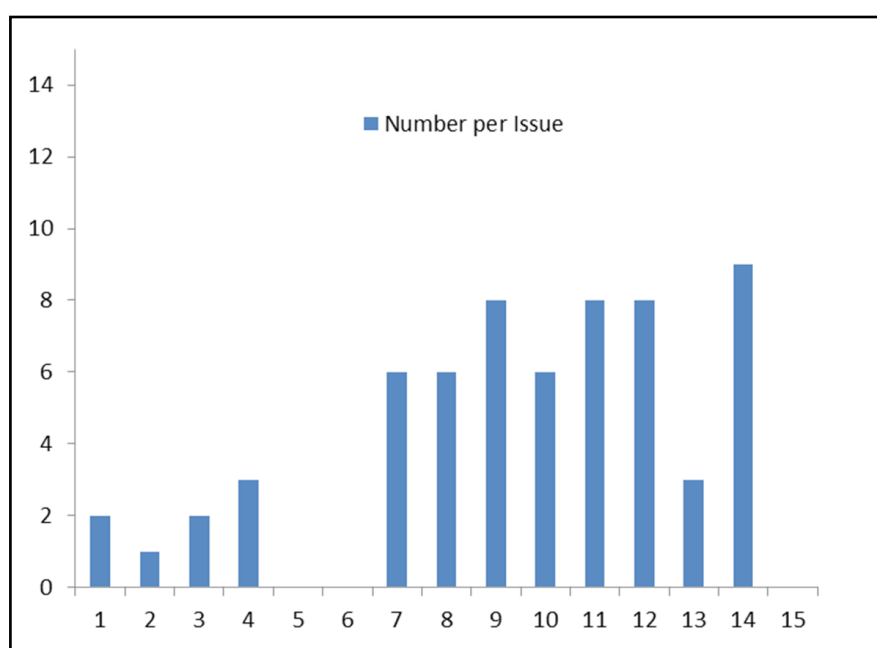


Figure 3. Number of translated articles per issue

This thematic shift aligns with the socio-political landscape of Arab communities during that period (mid-2016). As discussed in the earlier sections regarding temporal and spatial configuration, many Arab countries were grappling with instability, turmoil, and internal divisions in the aftermath of the Arab Spring. Moreover, the later issues of *Dabiq* predominantly dealt with near enemies, bringing issues of identity into focus (Ingram 2018, 14), an issue of great significance in the Arab communities.

For a closer scrutinization of the selective appropriation and sequencing in AZIZ8178's translations of *Dabiq*, the translated collection posted on June 29, 2016, can be categorized based on their vertical order and topic/theme into three parts: head (first 7 articles), body (middle 40 articles), and tail (last 14 articles), as depicted in figure 4. The head section comprises Arabic translations of in-

depth analytical feature articles from the later issues of *Dabiq* (7 and above). It is worth noting that feature articles typically do not appear at the outset of the English version of *Dabiq*, and are usually preceded by forewords and reports on operations.

The feature articles in the head section predominantly address political themes related to Arab regimes and local out-groups (Islamists, Shiite, rival jihadists, insurgents, revolutionists), interwoven with ISIS's radical conceptualization of key Islamic terms. Consequently, these articles appear to legitimize ISIS's radical viewpoint, portraying Arab political forces and currents as *murtaddīn* ('apostates') and *munafiqīn* ('hypocrites') who cooperate with the *kuffār* ('infidels') (Western forces and crusaders) against the Islamic *Ummah* ('nation').

For example:

1) "الإخوان مرتدون," translated from the English source article "The Murtadd Brotherhood," which classifies the Muslim Brotherhood organization as a *murtadd* ('apostate') outgroup;

2) "الرافضة: من ابن سبأ إلى الدجال," translated from "The Rāfidah From Ibn Saba' to the Dajjal," which declares *takfīr* ('infidelity') against Muslim Shiite sects; and

3) "تحتسبهم جميعاً وقلوبهم شتى," translated from "You Think They Are Together, But Their Hearts Are Divided," which denounces all allies to the West in the Muslim communities, whether regimes, organizations, parties, groups, or insurgencies, describing them as traitors, *tawāghīt* ('tyrants'), and *murtaddīn* ('apostates').

The selection and positioning of these feature articles at the forefront of the translated collection may be interpreted as an attempt to resonate with the target Arabic-speaking audience by addressing their prevailing socio-political conditions, as if ISIS's radical ideology was being contextualized within these Arab-specific backgrounds.

The body section of the collection (as shown in figure 4) maintains its focus on the near-enemy and jihadist conceptual narratives. However, it incorporates more articles centered on religious themes and matters related to *sharī'a* ('Islamic divine law'). In addition to discussing apostasy and hypocrisy in relation to the near-enemy, these articles delve into broader Islamic concepts. Among them:

(1) The concept of jihad ('struggle/fight for the sake of God') in "الإسلام دين الحسام لا دين السلام," translated from "Islam is the Religion of the Sword, Not Pacifism";

(2) *Ribāt* ('stronghold') in "فضائل الرباط في سبيل الله," translated from "The Virtues of Ribat for the Cause of Allah"; and

(3) *al-wala' wa al-bara'* ('loyalty and disavowal') in "الولاء والبراء مقابل العنصرية الأمريكية," translated from "Wala and Bara versus American Racism."

These articles assert the core ideological values claimed by ISIS (*jihad*, *ribāt*, *al-wala' wa al-bara'*) that allegedly co-relate with the Islamic heritage. The selection of these articles may be seen as a call for steadfastness and determination among ISIS members and sympathizers of Arab origin, particularly in the face of intensified counter-terrorist efforts during that period.

Notably, the body section includes translations of the full four parts of "The Allies of alQaidah in Sham" series, published across five consecutive issues (8–12). These translations, presented in a row in the body, consistently emphasize issues related to local out-groups. Moreover, historical articles that draw parallels between historical events from the Islamic heritage and current situations are also part of this section. Examples include:

1) "من صفحات التاريخ: السرايا والغزوات والانتصارات في رمضان" translated from "The Expeditions, Battles and Victories of Ramadan"; and

2) "من صفحات التاريخ: إنذار صريح من السلف للمرتدين" translated from "An Explicit Ultimatum from the Salaf to the Apostates."

These historical references seemingly connect contemporary jihadist narratives of ISIS with established public and meta-narratives within the Islamic tradition.

Interestingly, some forewords and IS reports that used to be on the first pages of *Dabiq* English issues appear toward the end of the body section in the Arabic version. Samples of these articles are:

1) "فرسان الشهادة في بلجيكا الافتتاحية" translated from "The Knights of Shahadah in Belgium";

- 2) "الإرهاب العادل: الافتتاحية" translated from "Just Terror"; and
- 3) "عملية أبو رمضان المهاجر: افتتاحية" translated from "Abu Ramadan AlMuhajir Operation."

They narrate attacks, military operations, or biographies of *shuhadā'* ('martyrs') and *mujāhidīn* ('jihadis') involved in these operations. The re-prioritization of these narratives toward the end in the Arabic version can be attributed to the redefinition of the temporal configuration. Most of these attacks and operations occurred during ISIS's peak period (2014–2015). They were suppressed in the Arabic version, which was posted at a time when ISIS was facing intensified counter-campaigns and losses, as elaborated earlier.

In the tail section, the far enemy theme takes center stage, with approximately 64% of the translated articles placed at the end of the collection focusing on the crusades or the West. This section commences with translations of eight "In the Words of the Enemy" articles, which reappropriate ISIS's far enemy statements to craft a narrative that supports and promotes the jihadist group.

One of these translated articles, titled "مجلة دابق - العدد 14 من أفواه الأعداء" and translated from the English source article "In the Words of the Enemy – Issue 14," reappropriates a report by the United Nations Secretary General Ban Ki-moon (United Nations 2016) on ISIS to highlight alleged ISIS strength. In another article, "مجلة دابق - العدد 8 من أفواه الأعداء," published in English as "In the Words of the Enemy – Issue 8," the jihadist group re-narrates statements made by some American politicians about ISIS to seemingly showcase the jihadist group's power and control over territories.

Surprisingly, this section concludes with the translation of a feature article. When examining the title and the subject of this feature article, "الصليبية الأخيرة," "تأملات في الحملة," translated from "Reflections on The Final Crusade," the mystery is unraveled, as it centers around the topic of the crusades (far enemy). A few other translated articles included in the tail touch upon jihad in various parts of Asia. In summary, the selectivity of the translated articles placed in the Tail reaffirms the temporal and spatial context of AZIZ8178's Arabic version of *Dabiq*, with minimal emphasis on the themes of the West or the far enemy.

Issue	Name	Type	Seq.
Head			
14	The Murtadd Brotherhood الإخوان المرتدون	Feature	1
13	The Rāfidah From Ibn Saba' to the Dajjal المرافضة: من ابن سبا إلى الدجال	Feature	2
12	You Think They Are Together, But Their Hearts Are Divided تحسبهم جميعاً وقلوبهم شتى	Feature	3
11	From the Battle of Al-Ahزاب to the War of Coalitions من معركة الأحزاب إلى حرب التحالفات	Feature	4
9	And Allah Is the Best of Plotters ويمكرون ويمكر الله والله خير الماكرين	Feature	5
8	Irjā': The most Dangerous Bid'ah and Its Effect on the Jihad in Sham الإرجاء، أخطر البدع، وأثره على الجهاد في الشام	Feature	6
7	The Extinction of the Grayzone من النفاق إلى الردة: اندثار المنطقة الرمادية	Feature	7
Body			
14	Kill the Imams of Kufr in the West قاتلوا أئمة الكفر في الغرب	Article	8
10	American Kurdistan كوردستان الأمريكان	IS Reports	9
10	Parents Tawhid and Our Duty to Our دينا وأولادنا تجاه التوحيد	Article	10
9	Healthcare in the Khilafah الرعاية الصحية في دولة الخلافة	IS Reports	11
9	Cause of Allah The Virtues of Ribat for the الله في سبيل فضائل الرباط	Article	12
9	Conspiracy Theory – Shirk شرك نظرية المؤامرة	Article	13
7	Islam is the Religion of the Sword Not Pacifism الإسلام دين الحسام؛ لا دين السلام	Article	14
11	Wala and Bara versus American Racism الولاء والبراء مقابل العنصرية الأمريكية	Article	15
11	Danger of Abandoning Dārul-Islām خطر ترك دار الإسلام	Article	16
11	The Evil of Division and Taqlid أفة التفرق والتقليد	Article	17
9	Sham: Part II The Allies of al-Qaidah في الشام: الجزء الثاني	Article	18
10	III The Allies of al-Qaidah in Sham: Part III حلفاء القاعدة في الشام: الجزء الثالث	Article	19
11	The Allies of al-Qaidah in Sham: Part 4 حلفاء القاعدة في الشام: الجزء الرابع	Article	20
12	The Allies of al-Qaidah in Sham: The End حلفاء القاعدة في الشام: الجزء الأخير	Article	21
11	Mahdi of the Rāfidah: The Dajjal المهدي المرافضة: الدجال	Article	22
13	Know Your Enemy: Who Were the Safawiyah من صفحات التاريخ اعرف عدوك: من هم الصفويون؟	History	23
12	Baqiyah من صفحات التاريخ: باقية	History	24
11	From Jihad to Fasad من الجهاد إلى الفساد	History	25
10	The Expeditions, Battles and Victories of Ramadan من رمضان: الغزوات والانتصارات	History	26
9	The Flags of Jāhiliyyah من صفحات التاريخ: أرايات الجاهلية	History	27
8	AbuBakr As-Siddiq's Monumental Stance موقف أبو بكر الصديق التاريخي	History	28
7	An Explicit Ultimatum from the Salaf to the Apostates من صفحات التاريخ: إنذار صريح من السلف للمرتدين	History	29
14	Lessons from The Fitnah of the Mongols من صفحات التاريخ: دروس وعبر من فتنة المغول	History	30
10	The Qawqazi Caravan Gains Pace البيعة من القوقاز: القافلة القوقازية توأكب المسير	IS Reports	31
8	Bay'ah from West Africa البيعة من غرب إفريقيا	IS Reports	32
8	Soldiers of Terror جنود الرعب	IS Reports	33
12	Abu Junaydah al-Almani من المؤمنين رجال: أبو جنيذة الألماني	Believers	34
14	Abu Jandal al-Bangali من المؤمنين رجال: أبو جندل البجلي	Believers	35
14	The Blood of Shame by John Cantlie دماء العار – جون كانطلي	Special	36
14	The Knights of Shahadah in Belgium فرسان الشهادة في بلجيكا	Foreword	37
12	Just Terror الإرهاب العادل: الافتتاحية	Foreword	38
9	Texas Attack هجوم تكساس: افتتاحية	Foreword	39
8	Abu Ramadan AlMuhajir Operation عملية أبو رمضان المهاجر: افتتاحية	Foreword	40
7	Execution of Japanese Hostages إعدام الرهائن اليابانيين: افتتاحية	Foreword	41
1	Dabiq Magazine التعريف بالمجلة: افتتاحية	Foreword	42
3	The Liberation of Dabiq The Punishing of Shu'aytat for Treachery & تأديب الشعوب لنقضها العهد وتحرير دابق	IS Reports	43
4	The Revival of Slavery Before the Hour إحياء الرق قبل قيام الساعة	Article	44
7	The Burning of the Murtadd Pilot حرق الطيار المرتد	Article	45
9	Prostitutes Slave-Girls or أمسيات أم بغايا أم سمية المهاجرة	Women	46
13	Not Reflect on the Qur'an فلا يتدبرون القرآن Do They	Article	47
Tail			
12	In the Words of the Enemy من أفواه الأعداء	Enemy	48
14	In the Words of the Enemy من أفواه الأعداء	Enemy	49
11	Words of the Enemy In the Words of the Enemy من أفواه الأعداء	Enemy	50
8	Words of the Enemy In the Words of the Enemy من أفواه الأعداء	Enemy	51
7	Words of the Enemy In the Words of the Enemy من أفواه الأعداء	Enemy	52
3	Words of the Enemy In the Words of the Enemy من أفواه الأعداء	Enemy	53
2	Words of the Enemy In the Words of the Enemy من أفواه الأعداء	Enemy	54
1	In the Words of the Enemy من أفواه الأعداء	Enemy	55
12	The Revival of Jihad in Bengal إحياء الجهاد في البنغال	Article	56
14	Interview with the Amir of the Khilafah's Soldiers in Bengal مقابلة مع أمير جنود الخلافة في البنغال، الشيخ أبو إبراهيم الحنيف	Interview	57
12	Advice to Mujahidin: Listen and Obey وصايا للمجاهدين: السمع والطاعة للشيخ عيسى العوشن	Article	58
4	Was Placed for Me in the Shade of My Spear My Provision وجعل رزقي تحت ظل رمحي للإمام ابن رجب الحنبلي	Article	59
4	Reflections on The Final Crusade تأملات في الحملة الصليبية الأخيرة	Feature	60
10	Caravan of Islamic State Knights in the Lands of the Crusaders الحق بركب فرسان الدولة الإسلامية في ديار الصليبيين	Poster	61

Figure 4. Classification of translated articles into head, body, and tail

Regarding S-RQ3, the feature of causal emplotment is employed to examine the narrated plot resulting from the above explained instances of selectivity and sequencing. The selective appropriation discussed above led to different weighing of events, compared to the source English magazine. Thus, a new trajectory of causal emplotment was created in the Arabic version. The weighing of *Dabiq* in English can be understood from the three phases of the magazine's life cycle: (1) religious legitimacy, (2) anti-Western themes, (3) local out-groups and internal conflicts (Droogan & Peattie 2017, 614–615). However, in the *AZIZ8178*'s Arabic version, these phases are somewhat inverted, as illustrated in figure 5. The weighing in the Arabic version begins with local outgroups and ends with anti-Western themes, with religious legitimacy in between.

As previously explained, *AZIZ8178* prioritized the articles that embed ISIS's radical ideology in the prevailing socio-political context, placing a significant focus on identity. In the aftermath of the Arab Spring upheavals, there was a notable exploitation and construction of new identities (ethnic, religious, tribal) within the mediated narratives. This construction of identities contests any shared sense of community (Colombo 2016, 471), consequently contributing to notions of division, violence, and fundamentalism.

In discussing the narratives of insecurity and instability in the Middle East post-Arab Spring, Monier (2015) postulates that "identity, when used as a basis . . . draws on 'othering' and difference in constructing perceptions of threat" (12). This phenomenon exacerbates the sense of sectarianism (such as Sunni vs. Shiite, Muslim vs. Christian).

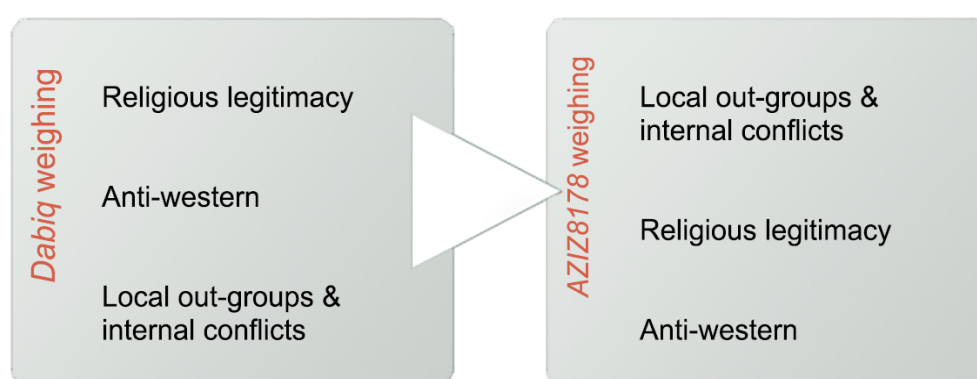


Figure 5. *Dabiq*'s vs. *AZIZ8178*'s weighing of events

Following the emphasis on local and internal conflicts, the Arabic version presents ISIS's interpretation of key Islamic concepts within a series of jihadist conceptual narratives. These narratives appear to legitimize the group's principles, actions, and goals. While religious legitimacy is the primary focus in the English magazine's life cycle, *AZIZ8178* places less importance on this aspect in the Arabic version. Instead, the new weighing tends to start by stirring up fanaticism, placing internal conflicts and identity at the forefront. Subsequently, ISIS's radical view of Islamic concepts and matters related to Sharia law infiltrates the narrative to challenge prevailing ideas and doctrines of mainstream moderate Islam.

Furthermore, the Arabic version gives the least priority to ISIS narratives concerning the far enemy (the West), ISIS attacks and operations, and personal experiences of *mujāhidīn*, when compared to their prominence in the English magazine's life cycle. The downplaying of narratives on ISIS attacks and operations can be attributed to the group's losses and counter-operations on the ground during that period. Meanwhile, narratives on the far enemy were presumably given the least attention because they did not align with the socio-political context of the target audience.

To address S-RQ4, the analytical tool of relationality is employed to investigate how the translator's positioning is portrayed within the mediated narratives. This aspect has two dimensions: the relationality of parts and the repositioning of participants. The latter—which is relevant herein—concerns “the way in which participants in any interaction are positioned, or position themselves, in relation to each other and to those outside the immediate event” (Baker 2006a, 132).

Paratextual elements, such as signatures, labels, and footnotes, are analyzed to assess how the translator/agent is repositioned in *AZIZ8178* translations relative to the editors or authors of the English magazine. The agent (Aziz Shamr) is also analyzed in comparison with *al-Battār* media that undertook Arabic translation of three early issues of *Dabiq*. While *AZIZ8178* blog lacks a clear About section, possibly due

to concerns about security crackdowns, there are subtle clues provided by the translator or blog author that can be analyzed. The translator's name, "azizshamr," is prominently displayed in a large, bold font at the top of the blog page alongside the title "Author," as illustrated in figure 6. Moreover, both the translator's and the designer's signatures are included at the end of the extensive post containing the translations. These signatures read: "الترجمة: م. عبدالعزيز شمر" (translation by M. AbdelAziz Shamr') (translation by M. AbdelAziz Shamr') (AZIZ8178 2016a), with "م." (M.) most probably standing for *mujāhid* ('jihadi'). Additionally, Shamr's signature is found at the end of almost every translated article. The presence of this paratextual element (signature) serves to position Shamr as a visible agent in the translation process. Additionally, the jihadi labels preceding the names suggest a potential affinity to the jihadist ideology.



Figure 6. Translator's signature appearing on the blog page and at the end of each translated article

Despite the possibility that these names may be pseudonyms concealing the true identities of the agents, the use of signatures and names in the by-lines contradicts the typical style employed by ISIS propaganda channels. Generally, media arms affiliated with ISIS adhere to a monolithic, centralized, and structured style, where authors, contributors, or editors are not identified in most English articles (Bunker & Bunnker 2018, 26). Moreover, the name “Aziz Shamr” deviates from the identification system commonly followed by ISIS, which, as noted by Gatt (2020, 92), follows a traditional Arabic nomenclature consisting of *kunya*, *nasab*, and *nisba*. Shamr’s style also differs from that of *al-Battār* media, which did not disclose the identities of any of the translators involved in its three published Arabic issues of *Dabiq*, maintaining the unified organizational style of ISIS media producers.

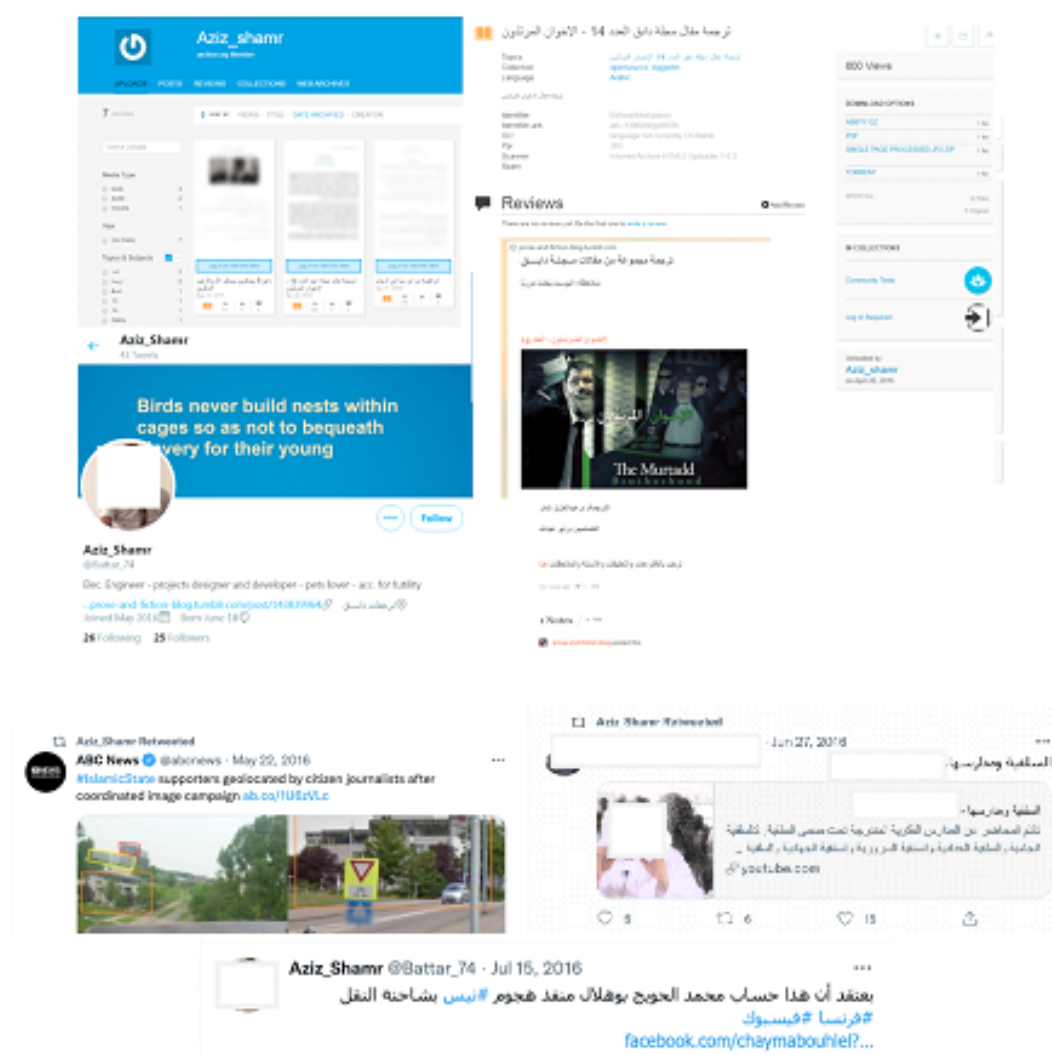


Figure 7. Positioning – Autonomous jihadist translator

Applying Lia's (2007) classification of jihadist media producers, Aziz Shamr can be categorized as a voluntary, anonymous sympathizer who took on the task of translating *Dabiq* into Arabic to expand and promote ISIS's jihadist narratives. The available data⁵ extracted from the blog and other social media accounts associated with the name Aziz Shamr (see figure 7) indicate that the agent of translation is a supporter and sympathizer of the ISIS jihadist ideology. Shamr's support for the ISIS group and its affiliates is evident in his posts, which, in addition to the Arabic translations of *Dabiq*, primarily revolve around topics related to Salafism, martyrdom, and the Islamic State. Nevertheless, Shamr's autonomous style and visible positioning, as discussed earlier, stand in contrast to the unified organizational style typically adopted by both *al-Hayāt* Media (the English magazine publisher) and *al-Battār* Media (producer of three Arabic issues of the magazine).

Footnotes represent another peritextual element accompanying AZIZ8178's Arabic translations of *Dabiq*, solidifying the translator's positioning as an active and autonomous agent. In numerous instances, the translator (Shamr) supplemented the translated material with his own comments for the purpose of providing clarification. For example, when translating an article from *Dabiq*'s issue 9, Shamr explains what the editor means by "the grayzone" (54). Shamr translated the word in the text as "الحالة الرمادية," then added the following note in Arabic: "المحرر يقصد حالة الحياد" (*the editor means neutrality') (AZIZ8178 2016b), explaining his interpretation of the word. In another footnote accompanying the translation of an article in *Dabiq*'s issue 7, the translator commented on one of the editor's notes by adding a specific *Hadīth* that substantiates the argument (the use of the sword in Islam), as illustrated below.

He [Prophet Muhammed] also declared that his worldly provision was placed for him in the shade of his spear and that the best livelihood for the Muslim in the future is what he takes with his sword from the kafir enemy³.

⁵ It should be noted that, in this study, the analysis is conducted according to available data from Shamr's blog and accounts. There are no available means to verify if such data are authentic or faked, which is one of the limitations faced in the study.

³ See pages 10–13 of issue #4 of *Dabiq* and pages 29–30 of issue #3. (*Dabiq*, issue 7, 22)

كما بين [النبي محمد ص] أن رزقه الدنيوي جعل تحت ظل رحمه، وأن خير ما يأتيه المسلم في دنياه هو ما يناله بسيفه من العدو الكافر.³*

3- انظر الصفحات 10-13 من دابق العدد الرابع، والصفحتين 29-30 من العدد الثالث.

* المُترجم: الحديث المُشار إليه هو قول النبي صلى الله عليه وسلم: “أظلتكم فتن كقطع الليل المظلم، أنجي الناس منها صاحب شاهدة يأكل من رسل غنمه، أو رجل من وراء الدروب أخذ بعنان فرسه من فيء سيفه [صحيح: المستدر ك على الصحيحين] (AZIZ8178 2016c, emphasis added)

These instances of footnotes serve as unmistakable indicators of the distinctive role that Shamr plays as an active and visible agent in the translation process, setting him apart from the translations produced by *al-Battār*, which notably lack this type of agency. Furthermore, these interventions provide some evidence of Shamr's alignment with the jihadist ideology and illustrate his keenness to add additional comments and elaborations that allegedly validate ISIS's extremist conceptualizations of Islam.

5. Conclusion

This article presented a product-oriented research study on online jihadist translation through the analysis of the paratexts surrounding the Arabic translations of ISIS English magazine *Dabiq*, published in AZIZ8178. Based on the data collected from the blog AZIZ8178, the article concludes that the translation endeavor supports ISIS's jihadist ideology. The paratexts reframe the Arabic translations and suggest that the translations may have been carefully tailored to the time of publication (mid 2016), a period when ISIS was grappling with significant challenges and losses on the ground. Additionally, various paratextual frames were strategically employed as gatekeepers to refine the content of *Dabiq*, making it more relevant to the prevailing socio-political landscape of Arabic-speaking communities.

AZIZ8178 prioritized the inclusion of in-depth articles that intricately interwove the radical jihadist ideology with the existing local internal conflicts and divisions within the Arab communities. Meanwhile, content related to the far enemy (the West) or discussion of victories, operations, and attacks carried out by foreign fighters was subdued in the Arabic version. Additionally, some paratextual frames signified the positioning of the translator as an autonomous jihadist sympathizer. This was evident in the signatures and footnotes appended to the translations published by AZIZ8178, breaking away from the typical organizational subordinated style often found in the translations published by ISIS-affiliated media channels.

This paper has elucidated a case of online jihadist translation that successfully readapted the mediated message to suit the target audience and the evolving socio-political context. Nevertheless, the paper is limited to a product-oriented analysis that relied on paratextual data. Thus, future research may track the textual analysis of AZIZ8178 translations to complement the findings. Furthermore, this study has classified the jihadist translator involved based on previous literature on jihadist web media arms, which may serve as a foundation for further interdisciplinary investigation and comparison with literature on activist translator communities. This area is ripe for additional research, aiming to define and categorize the different groups and individuals involved, with a focus on their nature, structure, and practices.

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