

# Indigenous Rights and Language Sovereignty

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## Chapter Outline

- Introduction 321
- From Erasure to Sovereignty: A Trajectory of Reclamation 321
- The Imposition and Persistence of Settler Colonial Structures 327
- Human Rights Harms through the Lens of Indigenous Language Knowledge Keepers 333
- Identity and Language Sovereignty 337
- Conclusion 340

## Learning Objectives

After reading this chapter, students should be able to:

- Understand the underlying logics of settler colonialism and its role in the ongoing dispossession and erasure of Indigenous peoples.
- Critically identify Western biases in the human rights frame and possible inscription or reinscription of social hierarchies.
- Understand the critical role of language rights in high-stakes encounters with the state and public entities.
- An appreciation of the rights of Indigenous peoples within the human rights frame arising from their collective identity and peoplehood.
- An appreciation of Indigenous sovereignty and of language rights advocacy within a project of Indigenous language sovereignty.
- An appreciation of transformative human rights practice from the perspective and horizon of the struggle of excluded and impacted communities.

## INTRODUCTION

This chapter on human rights practice lies at the intersection of language, Indigeneity, and sovereignty. It emerges from a collaborative project with an Indigenous rights organization in Los Angeles: CIELO—*Comunidades Indígenas en Liderazgo*. Coauthor Odilia Romero is the Co-founder and Executive Director of CIELO. She is a Zapotec woman and an Indigenous language rights activist. A cornerstone of CIELO's work is a project involving the training and deployment of Indigenous language interpreters in support of the human rights struggle of their communities for language access. It is a project we define as one of **Indigenous language sovereignty**, which we posit is a fundamental human rights issue for Indigenous peoples. Coauthor Joseph Berra is Human Rights in the Americas Project Director at the Promise Institute for Human Rights, UCLA School of Law. He is of European descent, and the focus of his work is on movement lawyering in support of the human rights struggles of impacted communities in the United States and Latin America. Coauthor Shannon Speed is an anthropologist and Director of the American Indian Studies Center at UCLA. She is a Chickasaw tribal citizen whose research interests include activist research methodology, Indigenous women migrants, settler colonialism, Indigenous sovereignty, and legal anthropology.

In this chapter we will engage the position of Indigenous peoples in a world, including the human rights world, dominated by a Western colonial mindset. You will be asked to reflect on a colonial history whose practices and logics are alive today in the dispossession and forced migration of Indigenous peoples, in the erasure of their identities, in the racial hierarchies that persist, and the overt racism and cultural biases exhibited toward Indigenous peoples and their knowledges. We will also consider the dilemmas faced by human rights activists working within the very system they seek to transform, a system that produces the human rights harms they struggle against. Finally, we hope you will be challenged by the broader interpellation of the human rights project made by those whose humanity has been denied and who pull us toward a distinct **human rights horizon**.

## FROM ERASURE TO SOVEREIGNTY: A TRAJECTORY OF RECLAMATION

In migration, people shift, identities shift. The common narrative of migration and of colonialism is that people find a new land and stake a claim; they become part of the country. In 1981, a ten-year-old girl arrives in Los Angeles. She is a Bene Xgollo.<sup>1</sup> Like her ancestors that came before her, she is from the Northern Highlands of Oaxaca, Mexico. People speak quickly to her in a language that seems like a blur. She enters the school system; she is now a Latina. The language she doesn't understand isn't just English; it's also Spanish. To her it's nothing more than a mush of strange words indistinguishable from each other. Identities don't simply shift; they are erased, and they are imposed. That ten-year-old girl is Odilia Romero; this is my own experience, and forty years into the present I am still witnessing the erasure of a vast and changing population.

When I arrived in this country, people found it so easy to put me in a box: Latina. People invoke the badge of *Latinidad* in this country proudly; they check the box. It marks a voting block, a consumer group, a history that empowers a people to be proud of their accomplishments in this country. However, for others, this label enables a system to

exclude us, deny our existence, to decontextualize the violence we face, and traumatize our communities. What for some is an easy box to check, for others becomes a box they place us in, stripping away our rich history, our culture, our language, and our rights. Indigenous children set up for failure by a school system that doesn't recognize their unique needs, families torn apart by social services that don't understand how to serve them, and in some cases even death—these are the consequences faced by Indigenous people whose Indigeneity itself is erased though the process of being labeled as Latinos.

I hope to address a few questions to explain the barriers faced by Indigenous migrants and the work being done to fight for the human rights of our communities, particularly through language rights. What unique barriers do Indigenous migrants face and how do these create unique needs? How does the system erase and traumatize Indigenous communities? What efforts are being made for the language rights of Indigenous migrants, and what are some pitfalls we face? Throughout this chapter I will try to use data where available, but there will also be much information from my own experiences, since data on Indigenous migrants in the United States is lacking. In working through these questions, I hope that we can all begin to dismantle the box that has been used to silence Indigenous voices and come to understand this as a human rights concern.

### Mislabeling, Cultural Bias, and Discrimination

As my own experience illustrates, people from south of the United States are quickly labeled as Latino on arrival. But Latinidad obscures a rich variance of languages and cultures. In Mexico alone, there are 68 Indigenous Language Families and 364 variants of those languages. The variants of these languages are so diverse that sometimes speakers of the same root language, but different variants, cannot understand each other. Guatemala has at least 24 recognized Indigenous Language Families. Many Indigenous communities have limited Spanish speaking skills or are monolingual. How can this much linguistic and cultural variance be encompassed by one identity category? More importantly, what work is done by obscuring this diversity?

Once we arrive here we don't suddenly become part of the whole; the system continues to close its doors to us and perform great injustices upon us. The system has for a long time failed to acknowledge the unique language needs of the Indigenous communities and violated their human rights. Rita Quintero, a Tarahumara community member, spent twelve years locked in a mental institution in Kansas. In the mental institution they gave her medication without her consent and without explaining its effects.<sup>2</sup> She was diagnosed as delusional and schizophrenic because she identified herself as coming from the sky. This was because she came from a mountainous region of deep canyons in the Mexican state of Chihuahua, and her community distinguished between those who lived "below" in the canyon and "above" on the ridge. The literal translation when she would speak in Spanish was "Vengo del Cielo." It is not only important to highlight that it was a shortfall in how languages translate but also how culture affects understanding language. Not all cultures see directions and geographic places in the same terms; the lack of cultural understanding and not having someone there to bridge that gap robbed her of her freedom.

There are certain remedies in place now, such as Title VI of the Civil Rights Act, which require anyone receiving federal funding to provide interpreters. However,

requiring interpretation is only part of addressing systemic problems. What happens when the systemic biases engrain themselves in the culture of service providers? I have heard Latina nurses say, “Dumb it down, here comes another (Indigenous person) Oaxacan.” Biases don’t suddenly leave the people that are part of the system. People within the system see our community members as ignorant and deficient society members. In a case I interpreted for, I saw a family stripped of their children because of these biases. One of their children was born with a severe illness, and they were given a Spanish interpreter, who gave them directions to administer her drugs in Spanish. When the doctor saw no reaction to the diagnosis and they didn’t give their child the medication properly, social services was called on them. No one took the time to assess their understanding of the instructions or the illness. This wasn’t discovered until we were well into the court process. The child had a severe illness, but they were never told what it meant for their child’s health, nor was it explained to them with an understanding of the limited education or Spanish language knowledge they had. This lapse in providing effective interpretation for this family cost them the separation of their family and could have cost their infant’s life. We need to ask where we stop putting the onus on victims of the system and start holding the system accountable for the way it treats people in need of effective interpretation. It’s not enough for service providers to simply say they’re abiding by the law. They need to operate ethically to make sure those people receiving interpretation services are being treated in a humane way.

Making resources available and removing biases only begins to address the damage done. There is trauma engrained in Indigenous language speakers. When I stepped into the role of interpreter for the family that had their children removed from them, I saw another instance of the countless traumas I have seen. The father of the family told me, “Es que me miran chiquito” (“It’s that they belittle me”). The sentiment of him feeling belittled, talked down to, seen less than, wasn’t something that had to be said in words; it was palpable. Even well into the court process, once it was discovered that the mother of the family needed an interpreter, she refused to use an Indigenous interpreter for the shame she felt, and the fear of being treated poorly as she had been before. To speak an Indigenous language in a court of law is an act of rebellion and resistance. If we do not create a safe space for Indigenous language speakers, it is as if the resources aren’t available in the first place.

### Language Is Not Neutral: Interpreter Services from an Indigenous and Human Rights Perspective

When we founded CIELO’s interpretation program, it was more than simply providing interpretation services; it was addressing the human rights behind interpretation. We don’t believe that a system can absolve itself of accountability by simply checking boxes, putting resources out into the public, or simply complying with the letter of the law. There is a strong need for a decolonization of our systems and our people.

The killing of Manuel Jaminez, in 2010 was a jarring moment in which it cost someone’s life to create a change. Manuel Jaminez was an Indigenous language speaker (Maya K’iche’), who was given orders by the police in Spanish, which he did not understand, but in the officer’s eyes he did not comply, and they shot him to death. After this tragic instance, the Los Angeles Police Department, reeling from the public outcry and a realization of the deep disconnect between themselves and the communities

they were serving, reached out to us. CIELO began working on cultural competency workshops and resources for police officers to use.<sup>3</sup> We encountered resistance from Latino officers who said there were no Indigenous people from the part of Mexico they came from, and disbelief that there really could be that many Indigenous communities in Los Angeles. Over time, attitudes have changed. I now see some of those same officers giving tours to reporters and explaining their knowledge about the different Indigenous communities throughout Los Angeles. The resources we have given officers to identify Indigenous language speakers have helped put community members in touch with interpreters at critical moments as well.

Our work also recognizes the power and accountability of the interpreter. In my experience I have seen that the system of interpretation has not been built with the Indigenous interpreter in mind. This is why we at CIELO created the first Indigenous Interpreters Conference, and why we continue to offer trainings for Indigenous interpreters. As an interpreter myself, I saw many trainings and conferences take place where Indigenous interpreters were excluded, and our languages were rarely talked about. We often lack the formal certification others have. Many interpreters have taken on the role through necessity, but they often have not received the training and resources other colleagues have. Where an interpreter in a language like Spanish might be able to specialize in a single field (like health or law), because of the limited numbers, our interpreters need to take on multiple subject matters while still struggling with the limitations of their training. By educating interpreters about their role, the ethics behind interpretation, the subjects they are interpreting, and decolonizing the mindset around interpretation, we are empowering effective interpreters to serve the community. These interpreters can help Indigenous language speakers gain access to justice in the judicial system, gain access to quality healthcare, and advocate for themselves.

Language itself is not neutral. With colonization and forced displacement of our communities came concepts, societal norms, and worldviews that were and are outside our experience. Explaining to a patient they have high cholesterol, when there is no succinct word for it and a patient's educational level hasn't exposed them to an understanding of the illness, creates issues in providing effective interpretation. I have seen court cases where an interpreter will mix in Spanish words, because there is no ready translation for the word. I have also seen interpreters translate labor law documents into Triqui and other Indigenous languages for government agencies. Though this might seem like a great step forward, how do you ensure that workers understand the document? How do we ensure that communities who have received little formal education, have limited reading skills, and may not have heard about the concepts outlined have a full understanding? An interpreter must realize that a single word matters; you can just as easily kill a patient or a worker with a word as with a bullet. CIELO works to help interpreters realize their value and help them understand that they aren't in place to simply work for the system, but to serve the community, to help bridge understanding.

Indigenous interpreters face a great challenge in trying to interpret words and concepts that are often foreign to them. Many interpreters haven't had access to formal training or higher education, making spaces like the courtroom intimidating. Due to this intimidation, an interpreter might be too embarrassed to ask for clarification on terms they don't know. This can lead an interpreter to make grave mistakes, as the case of Diego Guzaro Rivera demonstrates. Diego speaks Ixil Mayan and was provided an interpreter

for his competency hearing. María Luz García, professor at Eastern Michigan University, wrote a report for the court, which by highlighting the mistakes made by the interpreter shows the importance of training Indigenous interpreters. According to the report, at no point was Diego made aware that he was at a competency hearing. The interpreter did not understand how to interpret the word *competency* and instead used wording like “We are here to, to, to figure out/resolve that which you have done.” Professor Garcia goes on to mention in her report that the interpreter led Mr. Guzaro Rivera’s answers, when she couldn’t understand the questions; at times, the interpreter’s words made no sense because she did not understand the courtroom procedures taking place.

### A Center for Indigenous Language and Power

The erasure of Indigenous people has led to the lack of investment in Indigenous interpreters; this is an injustice to both the interpreter and to those receiving their services. Seeing the need to empower our community by creating access to reliable interpretation services, CIELO created the Center for Indigenous Language and Power (CILP; see Box 15.1). In our conference and trainings, we emphasize the professionalization of our interpreters and remind them of their ethical obligation: they are liable for the life and freedom of those they interpret for. We educate interpreters on subjects like the Migrant Protection Protocol and court procedures; this not only builds their capacity, but it takes away the intimidation of being in spaces that have often created trauma for our communities. In our trainings we teach interpreters about their rights as interpreters. This includes the right to ask for clarification when they don’t understand a term; that way they can avoid borrowing words from Spanish. By empowering the interpreters, we empower the community that calls on their services.

#### BOX 15.1 CILP: A Multifaceted Language Project

The Center for Indigenous Language and Power (CILP) was founded in 2016. Cofounder and Vice-Executive Director Janet Martinez describes our work in the following words:

We created CILP in response to the vast population of Indigenous migrants from Mexico and Guatemala that has made a high demand for trained interpreters in Indigenous languages throughout the United States. CILP responds to the multiple needs that interpreters require to provide the most accurate interpretation while building power and sustainable leadership of the interpreters themselves. It is important to us to plant leadership in various parts of the United States, given the vast and urgent need. We provide continuous education for interpreters through workshops given by experts in their field alongside seasoned Indigenous interpreters guiding the new generation in breaking down the

terminology in Indigenous languages. We organized the first and only national Indigenous interpreters conference to provide networking space to build relationships throughout our Indigenous interpreters’ networks. We also know that it’s important to address the secondary trauma caused by analyzing difficult situations; therefore, we also provide mental health services to the interpreters through our Indigenous Women’s Healing Circles. CILP provides cultural awareness training to social service providers to educate them about Indigenous communities in the U.S. while also providing education on how to best identify an Indigenous person and their language. We connect social service providers, courts in the U.S., and hospitals with Indigenous language interpreters, and we are currently working on launching our app that will facilitate the scheduling of interpreters in Indigenous languages.

Our workshops for interpreters help them develop professionally and decolonize their mindset when interpreting. As we help interpreters grow professionally and develop their skills, it is important to remind them of their responsibility for their client's human rights. I once met an interpreter who had been trained by an institute, and he very officially presented himself as the interpreter for "chinanteco del oeste central bajo," a language designation made by the institute, but not a term used by the Indigenous speakers themselves. I asked him if one of his community members understood where that would be; he looked at me blankly, before realizing that the meaning of "chinanteco del oeste central bajo" would never register with someone from his hometown. It was a moment in which he realized that by using outside definitions and placing himself outside his community's identity, he had alienated and possibly intimidated the people he was there to serve. We are not here to replicate systems that intimidate our community members; we are here to create a space of understanding and a path for them to advocate for their own rights. We will not replicate the systems, but we will make demands of them.

### The Persistent Lack of Recognition

In early 2021, following a surge of minors and families arriving at the border, I made a trip to the border, near San Diego. CIELO was asked to help find interpreters for Indigenous Central American children who were detained and being held in an improvised "shelter," little better than a mass child detention center. When we arrived, we were asked to wait for our clearance, and we required multiple days to be able to gain access. Once our team made contact, many of the girls refused to speak their language or simply denied they spoke it. Some began to speak once they were comfortable. In one cohort, there was a single Indigenous girl, afraid to speak her language for fear of being discriminated against. There were hardly any Spanish speakers, let alone any Indigenous language speakers on staff of the shelter. A staff member welcomed the girls to California in Spanish. The organization in charge of the facility was looking for volunteers to watch over the children.

In all this I see a persistent barrier to Indigenous language sovereignty. Governments and organizations that benefit from the detention of displaced people are not investing the resources necessary to ensure the rights of Indigenous people. We were called on to identify Indigenous speakers, but we had limited monetary resources to stay in the area past a few days, not nearly enough time to help the hundreds of children being moved through the facility in less than thirty days or the dozens of Indigenous language speakers we identified. Due to lack of investment, there are few Indigenous organizations that provide interpretation services or that receive much funding. The children needed support and safe space to trust an interpreter as well. Many Indigenous interpreters have to balance other jobs and aren't available for long periods of time, since not many are hired as full-time interpreters. Indigenous interpreters simply aren't valued. Though I did not see it occur here, the sign looking for volunteers reminded me of a common strategy many used, taking interpreters on as volunteers, which is an unsustainable model. Governments and organizations must begin to identify the Indigenous and make investments in culturally competent programs and interpretation services.

It is time to break the box: we are not Latinos, we deserve to be counted, and our languages deserve to count. For so long the data gathered have labeled us as Latino, and we need to ensure that Indigenous people are counted and resources are allocated.



They must invest in community-led organizations educating, professionalizing, and hiring Indigenous interpreters. It is all our responsibilities to continue growing our capacity to serve the Indigenous language speakers from their human rights horizon.

## KEY POINTS

- Indigenous people are mislabeled as Latinx by immigration authorities and others, resulting in erasure of their identity, silencing of their voices, and denial of language access.
- These biases against Indigenous people are embedded in social systems where Indigenous people are demeaned, diminished, and harmed in hostile social spaces by the actors in those systems.
- Language is not neutral. Our approach to language and language access needs to be decolonized, including the mindset of interpreters. Interpreter services must be viewed from the perspective of the person seeking language access, and Indigenous language interpreters must no longer be excluded and devalued in the interpreter space.
- CIELO's Center for Indigenous Language and Power is a program centered on the empowerment of Indigenous languages, Indigenous language interpreters, and Indigenous communities to become advocates for their rights and language.

### Critical Thinking Questions

How is erasure of identity tied to human rights harms? How might safe spaces be created for Indigenous language speakers in various social systems: the health system, the immigration and immigration detention system, the criminal justice system? What are some of the challenges and dilemmas facing Indigenous language interpreters? What is CIELO doing to address them?

## THE IMPOSITION AND PERSISTENCE OF SETTLER COLONIAL STRUCTURES

As coauthor Speed has written about elsewhere (Speed 2008), human rights—often understood as an unqualified good—hold significant dangers for Indigenous peoples. To understand why, we must begin with an understanding of **settler colonialism**. In his now famous formulation, scholar Patrick Wolfe argued that settler colonial states were places where the settler had come to stay (Wolfe 1999). This is different from, for example, simply engaging in extraction of resources or administering the territory from the colonial metropole, forms of colonialism that tended to result in the original inhabitants regaining control of the territory with independence. He theorized a unique kind of colonialism in which the colonizer came for the land, necessitating the dispossession of the Indigenous population already occupying the land. That dispossession was achieved through what Wolfe termed “logics of elimination,” by which he meant the various processes of literally taking Indigenous peoples off of the land through genocide, through physical removal, through assimilation, through policies of relocation.

In his now oft-cited terms, settler colonialism is “a structure, not an event” (1999, 2). This is important, because it signals that settler societies—classically, Wolfe was talking about places like the United States, Canada, Australia, and New Zealand—are fundamentally structured on Native dispossession and elimination. It follows that there is no “post-colony” in the sense we might think of emerging following a



country's independence from the colonial metropole, because the settler has remained and continues to operate on a logic of dispossession and elimination. In other words, colonial occupation of the peoples Indigenous to these countries is ongoing, as is the settlers' need to continually enact their sovereignty and justify their right to control these lands. A key component of that justification in places like the United States has been discourses of the "vanishing Indian," which served to naturalize Native death and disappearance, ceding way to the "superior civilization of the white settler." Native erasure, then, becomes a key technology of the settler state.

### Who Defines Human Rights?

How are human rights implicated in this scenario of ongoing colonization? As a Western **Enlightenment** concept, the human rights framework embodies some significant concepts at odds with Indigenous peoples' non-Western worldviews. For example, human rights are largely premised on the individual, while Indigenous cultures are largely focused on collectivity and relationality. The imposition of human rights norms can be understood as an external imposition, one that forces Indigenous peoples to behave in ways that the West approves of, and thus are ultimately **assimilationist**. Relatedly, as Western constructs, human rights as used and understood in the world today are fundamentally products of nation states, and enforcement mechanisms tend to rely on, and thus authorize, the power of these states. Since those very states are the colonizers that Indigenous peoples may be struggling against for their liberation from colonial control, agreeing that these states have the unique power to grant and enforce our rights creates some conflicts of interest, to say the least.

Another danger for Indigenous peoples is that "rights" in general are legal constructs, adjudicated through legal bodies. Laws and legal regimes, of course, are key pillars of states' power and authority. So framing Indigenous peoples' demands as human rights may be accepting and reinforcing the power and authority of the states that oppress them. This is a complex set of issues that Indigenous people utilizing a framework of human rights must come to terms with. Can we struggle for our human rights without reinforcing our own colonization? At a minimum, the point of departure for engagement of the **human rights frame** requires a decolonial turn and direction in the struggle. Human rights discourse is a discourse around human dignity and what it means to be human, and that discourse is best carried out from the knowledge, perspective, and struggles of oppressed and excluded peoples in order to better discern the human rights horizon. Whether we can successfully deconstruct structures of oppression in this process remains an open question. One might think of this in the terms in which Audre Lourde famously did for Black liberation:

For the master's tools will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change. And this fact is only threatening to those women who still define the master's house as their only source of support.<sup>4</sup>

### Engaging the Human Rights Frame

As we read in Odilia's opening, harms produced by this type of rights violation are palpable, such as in the case of the children stripped from their mother. Separating

children from their parents and caging them at the US-Mexico border reproduces this same harm, and the failure to recognize the Indigenous identity of many of these migrants resulted in the tragic deaths of five Indigenous Mayan children, which we describe in the next section. Responsibility for those deaths lies squarely with the state. Such treatment provokes outrage, both at the harm done to individuals and at the very denial of their identity as Indigenous people. Child removal as a technology of settler power has a long history in the United States, where Native American children were systematically removed from their homes, families, and communities over the course of a century and a half. In the mid-twentieth century, it is estimated that as many as 80 percent of Native American children were removed from their homes to residential boarding schools and adoption to white families. It is a harm played out on various levels of the body: physical, emotional, psychic, and social, with intergenerational harm. It is an operation of structural processes with well-worn grooves of dehumanization, of Indigenous dispossession, erasure, and annihilation. It is a performance of settler colonialism.

Human rights practice can take many forms, many dependent on one's social positioning and approach (see Chapter 7). It is important, therefore, to situate our social positions and approach to human rights practice. Odilia and Shannon, as members of Indigenous communities, are actors in the collective struggle of Indigenous peoples. For our purposes here, this struggle includes Indigenous peoples defining, demanding, and shaping their rights in the current social context. We refer to this as the human rights horizon of the struggle, precisely because struggles like these emerge from social contexts in which a group's humanity has been denied or erased. That is the essence of the human rights activism we endorse and strive to practice, one which accompanies collective, liberatory struggles that define and shape the human rights horizon. This point of departure implies an indigenizing turn and direction, albeit not without the contradictions and tensions previously noted. Human rights practice is a transformative project insofar as it accompanies transformative movements of social change. In those movements is the possibility of dialogue around what it means to be human and to create relationships and normative structures that embody their human rights horizon. We believe, therefore, in processes of shared knowledge production in the context of these struggles.

We are also in dialogue with the existing and emerging human rights frame on the rights of Indigenous peoples. The evolution of these instruments, and in particular the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), is one of the few examples within the human rights framework of normative creation with the participation of the bearers of those rights, that is, Indigenous peoples themselves.<sup>5</sup> Moreover, the preamble of the Declaration recognizes the historical injustices suffered by Indigenous peoples "as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests."<sup>6</sup> As noted by the UN Special Rapporteur on the Rights of Indigenous People in his 2008 report to the Human Rights Council, "[t]he Declaration's preamble thus stresses the essentially remedial purpose of the instrument. Far from affirming special rights per se, the Declaration aims at repairing the ongoing consequences of the historical denial of the right to self-determination and other basic human rights affirmed in international instruments of general applicability."<sup>7</sup>

While applying general human rights instruments to the particular situation of Indigenous peoples, the Indigenous rights framework nevertheless recognizes a distinct status of Indigenous peoples, namely their peoplehood, which, denied or subordinated in a colonial context, gives rise now to a body of collective rights. These collective rights, grounded in the right to self-determination, are in their own way unique in the context of human rights norms. They belong to what some refer to as the third generation of human rights.

Repairing the ongoing consequences of colonial structures implies a more radical transformation of the human rights frame. For example, UNDRIP continues to affirm the territorial sovereignty of the nation state, and the settler colonial state in particular (see Box 15.2). Insofar as the human rights frame itself is a product of the colonial world, and insofar as the Indigenous rights frame is at risk of reinscribing those relationships, there is a tension with the human rights horizon demanded in the ongoing struggles of Indigenous peoples and the normative structure. We must situate in this context the transformative potential of the human rights horizon of language sovereignty demanded by the struggles of CIELO, and more generally the human rights horizon demanded by the struggles of Indigenous migrants.

### Indigenous Sovereignty

As a product of the international human rights system, UNDRIP safeguards the territorial sovereignty of the nation state members of the international system (Article 46). Rather than discuss Indigenous sovereignty, UNDRIP focuses on the concepts of peoplehood, self-determination, and collective rights of Indigenous peoples. This is not an insignificant transformation of the human rights framework, but in order to better discern the human rights horizon from the perspective of Indigenous people, we

#### BOX 15.2 UNDRIP: An Emerging Framework

The UN Declaration on Rights of Indigenous Peoples incorporates key elements from the perspective of Indigenous peoples, beginning with a strong recognition of the historical context of these rights in the Preamble: . . . *Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests. Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,* . . .

The centrality of language rights is enshrined Articles 13–16:

*Article 13.1 Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.*

Nevertheless, the vision of Indigenous peoples' rights and sovereignty is constrained by the dominant model of the nation state. There is little on language access with regard to state action, and UNDRIP reserves and protects the core sovereignty of the nation state:

*Article 46.1 Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.*

need to look at Indigenous sovereignty in conjunction with and opposition to Western and colonial concepts of sovereignty.

**Indigenous sovereignty** affirms that Indigenous peoples have inherent dominion over “their spiritual ways, culture, language, social and legal systems, political structures, and inherent relationships with lands and waters.”<sup>8</sup> It does not depend on recognition by the nation state which colonized Indigenous lands. “Indigenous sovereignty exists regardless of what the nation-state does or does not do.”<sup>9</sup> This inherent sovereignty continues as long as Indigenous people continue to survive as a people.<sup>10</sup>

### Indigenous Nations

Indigenous peoplehood gives rise to their recognition as nations. The British Crown and subsequently the nascent US government initially recognized their nationhood and inherent sovereignty. This recognition is reflected primarily in the practice of treaty-making but also in the establishment of trade relations and the formation of political alliances. Nevertheless, settler colonial logics continually undermined these nation-to-nation relationships and replaced them with violent practices of dispossession and genocide. What remained of treaty-making was a practice imposed by military conquest, one that inherently denied or diminished any equal relationship and resulted in the regular breaking of treaty promises when the logic and practice of settler colonialism demanded it. The young government of the United States aggressively used all the means previously discussed—forced dispossession and removal, genocide, forced assimilation, and child separation—to impose territorial sovereignty and a uniform (white) nationality over what is now the United States.

This practice was enshrined in the legal system through the **doctrine of discovery**, a Eurocentric legal doctrine constructed to justify the dispossession of Indigenous lands and the imposition of territorial sovereignty based on racial superiority. In a series of early Supreme Court cases, Chief Justice John Marshall declared that the Indigenous nations never had actual sovereignty over the territory of the United States, but only a right to “occupancy.” Under the doctrine of discovery, the “civilized” European powers obtained sovereignty over the “discovered” lands and could extinguish the Indigenous title of occupancy. According to Marshall, the United States inherited the right to exercise this sovereignty over Indigenous lands. Indigenous sovereignty was subordinated in US law to legitimate Indigenous dispossession, ultimately as a projection of racial and cultural superiority. In the eyes of US law, Indigenous nations were relegated to the status of “domestic, dependent nations.” (See Box 15.3.)

Nevertheless, Indigenous people have survived as such and never relinquished their identity as sovereign peoples. On the one hand, we must not confuse Indigenous sovereignty with the limited and formal sovereignty recognized by the United States or the United Nations and its treaty bodies. Similarly, we should not presume that the goal of Indigenous sovereignty is to create a nation state or join the community of nation states on that model. Indigenous sovereignty embodies the unique worldview of Indigenous peoples. It extends to all aspects of their lives as a people—political, social, economic, cultural, and spiritual, as well as their relationship to land, water, and nature. Indigenous sovereignty rests on a distinct, equal, but asymmetric footing with other sovereignties. The core to Indigenous sovereignty is survival as a people, and core to their survival as a people is preservation of their language and culture.

**BOX 15.3** Indigenous Sovereignty

*Respectfully complaining, show unto your honours, the Cherokee nation of Indians, a foreign state, not owing allegiance to the United States, or to any state of this union, nor to any other prince, potentate, or state, other than their own:*

*That, from time immemorial, the Cherokee nation have composed a sovereign and independent state, and in this character have been repeatedly recognized, and still stand recognized by the United States, in the various treaties subsisting between their nation and the United States.*

*That, long before the first approach of the white men of Europe to the western continent, the Cherokee nation were the occupants and owners of the territory on which they now reside; deriving their title from the Great Spirit,*

*who is the common father of the human family, and to whom the earth belongs.*

*That on this territory they and their ancestors, composing the Cherokee nation, have ever been, and still are, the sole and exclusive masters, and governed, of right by no other laws, usages and customs, but such as they have themselves thought proper to ordain and appoint.*

These are the opening clauses of the complaint by the Cherokee Nation in *Cherokee Nation v. the State of Georgia*. Chief Justice John Marshall rejected the Cherokees' claim to be an independent, foreign state, and instead defined Native Nations as "domestic, dependent nations." The Cherokee were soon after forcibly removed from their lands, a traumatic journey known as the "Trail of Tears."

The resistance and **survivance** of Indigenous peoples are reflected in their struggles within the boundaries and borders imposed by the settler colonial state. Indigenous peoples strive to preserve their spiritual ways, culture, language, social and legal systems, political structures, and inherent relations to lands and waters. Reclaiming sovereignty is an ongoing project of Indigenous peoples, seen today in the assertion of their presence as a distinct people, the strengthening of tribal governance, economic independence, consolidation and defense of territory and resources, and revitalization of language and culture.

**Indigenous Peoples of Latin America**

Because we are focusing on Indigenous migrants from Latin America, it is worth noting that while the colonization of Latin America followed a somewhat different path in relation to Indigenous peoples and in comparison with the United States, the fundamental settler colonial logic remained the same in its key forms: as opposed to an administrative and extractive colonialism, the European settlers came to stay in Latin America as well. The logic of dispossession, elimination, assimilation, and genocide has prevailed in various ways in Latin America much as it has in the United States. Similarly, the core notions of Indigenous sovereignty are present in the struggles of Indigenous peoples throughout the Americas for recognition, autonomy and self-determination, control and defense of territory and resources, and preservation of language and culture.

Indigenous migration from Latin America is a product of these logics. The forced removal and migration of Indigenous peoples from their traditional lands and territories is a product both of their exclusion from the Western neoliberal economic model and the drive of that model to extract resources from their lands. This has resulted in both internal displacement and forced international migration. Odilia aptly describes some effects of these logics from her own life and experience. The dynamic of Indigenous migration erodes elements of Indigenous sovereignty such as their unique relationship to the land and their political integrity. Nevertheless, Indigenous migrants have found creative ways

to assert their sovereignty in terms of identity, community, culture, and language. They maintain strong ties to their home communities and are exercising political power in their destination communities through their demands for recognition and rights.

## KEY POINTS

- Settler colonialism is a structure, not an event. The settler state operates out of logics of dispossession and elimination, and these logics are at work in the ongoing erasure of Indigenous peoples today.
- The human rights framework embodies a Western worldview prioritizing the individual, nation-states, and Western legal regimes. As such it is problematic for Indigenous peoples and potentially reinforces the power of states that oppress them.
- The collective struggles of oppressed peoples give rise to distinct human rights horizons, shaping the human rights discourse around what human dignity means for people whose humanity has been denied. We position our human rights practice in alignment with these collective, liberatory struggles.
- The UN Declaration on the Rights of Indigenous Peoples is a unique part of the human rights frame. Developed with the participation of Indigenous people, it is a remedial and reparative instrument, recognizing the collective rights and “peoplehood” of Indigenous peoples. Nevertheless, it continues to affirm the territorial sovereignty of the nation-state.
- Indigenous sovereignty is rooted in the survivance of Indigenous peoples and is expressed in the ongoing assertion of their presence as distinct peoples and control over their ways of being. Indigenous peoples have resisted attempts by settler states to extinguish their sovereignty, and sovereignty is essential to the human rights horizon for Indigenous people.

### Critical Thinking Question

Read Article 19 of the UN Declaration on the Rights of Indigenous Peoples regarding free, prior, and informed consent. What possible tensions do you see emerging from attempts by Indigenous people to enforce this Article? How do you think states will interpret this Article?

## HUMAN RIGHTS HARMS THROUGH THE LENS OF INDIGENOUS LANGUAGE KNOWLEDGE KEEPERS

In December 2019 CIELO hosted the first Indigenous Language Interpreters Conference organized by and for Indigenous people. The gathering began with a healing ceremony, and the person leading the ceremony expressed this centering of the conference in these words:

*We see ourselves as wounded healers. Our reality and context is one of trauma, of experiencing pain from the system. Therefore, our work as interpreters is one of healing, and we ourselves are wounded healers. We are trying to raise up and construct our Indigenous knowledge, because our Indigenous languages have been murdered and our knowledge destroyed. In order to do this, we are engaged in a process of self-training, self-certification, and self-regulation. We are willing to be in dialog with society about this process and its standards, but it is one of self-determination.*

*We realize we are mediating relationships through linguistic means. We recognize we are interpreting between unequal parties, often between oppressor and oppressed.*

As noted by Odilia, language access is supposedly guaranteed in law in the United States by Title VI of the Civil Rights Act. Title VI requires recipients of Federal financial assistance to take reasonable steps to make their programs, services, and activities



accessible by eligible persons with limited English proficiency. Federal agencies themselves must provide appropriate language assistance under Executive Order 13166. Language access is also enshrined in UNDRIP (see Article 13). However, the measure of access entitled to Indigenous language speakers is limited. Legally, there is no “one size fits all” measure of what public entities must do to comply with Title VI language access. Their obligation is based on a balancing test which looks at the number of Indigenous language speakers in the population served by the entity, the frequency of contact, the nature and importance of the program or service, and the available resources. The legal obligation is therefore designed more as a conditional entitlement than as a right.

Moreover, there are inherent and structural barriers to effective interpreter services for Indigenous language speakers. These include failure to identify the language spoken by an individual, inappropriate efforts to communicate in a third language like Spanish, lack of or difficulty in finding an appropriate interpreter, and limited access by Indigenous language speakers to interpreter certification. Having an interpreter present in person, through video, or by telephone does not always ensure effective communication. Indigenous languages from Mexico and Central America are often interpreted through relay interpreters, from the Indigenous language into Spanish, and then from Spanish to English by another interpreter, multiplying the risk of miscommunication. Some interpreters may also rely heavily on foreign (e.g., Spanish) words instead of working to translate Western concepts in words the Indigenous language speakers can understand. Formal efforts to provide interpreter services are often insufficient to eliminate potential harm in high-stakes situations.

Untrained interpreters can experience self-doubt and have difficulty ensuring understanding. When is it appropriate for the interpreter to intervene to assess that one or another party is not understanding? Or, if she is in the role of relay interpreter, when is it her place to suggest the end interpretation is deficient? When is it appropriate to do more than translate the word but to translate the concept behind the word to Indigenous ways of knowing? The Indigenous language interpreter may be the only person attuned to the cues that indicate effective or ineffective communication. The Western model of interpretation excludes Indigenous people and creates deficiencies which are exacerbated by exclusion of Indigenous people from higher education.

### Indigenous Vulnerability at the Border

For the language knowledge keepers at the Indigenous Interpreters Conference, confronting inherently unequal, exclusionary, and oppressive structures, and the systems in which they are embedded, often requires self-advocacy in order to clarify meaning and provide culturally contextualized interpretation. The erasure, dehumanization, and discrimination produced by settler colonial logics and white supremacy are reproduced in the political technologies of the state. By political technologies, we refer to means of social control such as the exercise of police power, the criminal justice system, and more generally the legal and regulatory systems. Interaction with these systems can involve extremely high stakes, such as the loss of freedom in the criminal justice or mental health systems, the loss of life at the hands of police or in critical health situations, or the loss of parental rights in the social welfare system, as described by Odilia.



### **Indigenous Migrants at the Settler-Imposed Border**

The settler-imposed border is a site of extreme vulnerability for Indigenous migrants, where language access is a matter of life and death. Department of Homeland Security (DHS) data do not capture indigeneity, only country of origin, yet another form of erasure. While there are significant populations of Indigenous migrants coming from Mexico, Honduras, and El Salvador, we look here at data on migrants from Guatemala on the assumption that the largest number of Indigenous migrants in recent years comes from there.

In fiscal year 2019, Guatemalans represented nearly one-third (31 percent) of Border Patrol apprehensions on the Southwest Border, or 264,168 out of a total of 851,508.<sup>11</sup> Indigenous Mayans represent between 40 percent (official government figure) to 60 percent (as claimed by Mayan organizations) of the population in Guatemala, living largely in the rural highlands. Eighty-three percent of Indigenous people in rural areas live in poverty. These Mayan populations were subjected to state-sponsored genocide in the 1980s and are currently displaced by ongoing discrimination, violence, and dispossession in the wake of extractivist industries in their territory.<sup>12</sup> Given these factors, they likely represent a majority of migrants from Guatemala. Guatemalan migrants disproportionately come as family units, another sign of likely indigeneity. Separate surveys of migrant shelters on the Arizona border found that 43 percent and 30 percent of migrants interviewed were Indigenous language speakers from Guatemala.<sup>13</sup> However, many Indigenous language speakers are reluctant to self-identify as Indigenous at the border and while in custody given their experience of racism and discrimination. Similarly, they are reluctant to request interpreters if agents speak to them in Spanish, believing that is what the authorities presume or want them to speak. When requests for interpreters in Mayan Indigenous languages are made to DHS, the response time can be weeks, further discouraging individuals from requesting an interpreter and aggravating the harm when effective communication is needed in high-stakes situations.

### **Settler State Performance and Indigenous Deaths**

Insufficient interpretation and language access lead to increased vulnerability for Indigenous women and children in particular. Coauthor Speed has documented through narrative testimonies how Indigenous women are more vulnerable to sexual assault in immigration detention centers (Speed 2019). A women's detention facility and a family detention facility in Texas were both the subjects of lawsuits alleging multiple cases of ongoing sexual abuse of women (2019, 74–76). For Indigenous women, their indigeneity and lack of language access render them invisible, and therefore they become easy targets for abusers. Because of the lack of language access, they are further limited in their ability to report such abuse.

More recently, the vulnerability of Indigenous children in state custody has come to light. The health and the emotional and physical needs of these children go unattended due to failures in identification and language access. This no doubt played a role in the deaths of five Indigenous children while in custody in a span of six months from 2018 to 2019.

In December 2018, seven-year-old Jakelin Caal and eight-year-old Felipe Gómez Alonzo died while in US Border Patrol custody. Both were traveling with their fathers. Jakelin and her father were native K'ekchi' speakers, and Felipe and his father were

native Chuj speakers from Guatemala. Jakelin's father reported that he informed Border Patrol agents that she was vomiting and sick when they were first apprehended, and they were not given anything to eat or drink in the holding facility. The Border Patrol agent alleged that the father did not indicate she was sick until they boarded a bus the next morning to be transported, and the agent claimed the father had signed a form during processing that his daughter was in good health. The form was in English. Jakelin was vomiting on the bus and had to be revived twice. After the ninety-minute ride from the border to Lordsburg, New Mexico, she received medical attention, but later died. The cause was determined to be streptococcal sepsis, "found in her lungs, adrenal gland, liver and spleen," which spread rapidly and "led to multiple organ dysfunction and death."<sup>14</sup>

Felipe similarly died of the flu complicated by a bacterial staph infection that led to sepsis.<sup>15</sup> He and his father had been in Border Patrol custody for six days. On the sixth day, December 24, 2018, he was under medical observation for ninety minutes when his fever spiked to 103 degrees. Medical staff diagnosed a common cold and fever, gave him amoxicillin and ibuprofen, and sent him back into custody. When he later vomited, Border Patrol alleged that his father refused medical attention. In fact, later affidavits showed the father called Border Patrol agents to the cell, where he told them his son was in pain and thought he was going to die. Three hours later, as his condition worsened, he was sent back to the hospital where he died.<sup>16</sup>

At least three other Mayan Indigenous children died in custody in 2019.<sup>17</sup> Juan de León Gutierrez, sixteen years old, died April 30 under the care of the Office of Refugee Resettlement (ORR, a division of the Department of Health and Human Services) after officials at the detention facility noticed he was sick. He was Maya Ch'orti' and died of a brain infection caused by an untreated sinus infection.<sup>18</sup> Wilmer Josué Ramírez Vásquez, two and half years old and also Maya Ch'orti', died on May 14 after being detained with his mother by Border Patrol in April. He was sent to a hospital where he was diagnosed with pneumonia and died after one month.<sup>19</sup> Carlos Gregorio Hernandez Vasquez, Maya Achi and sixteen years old, died after spending a week in Border Patrol custody. While in custody, he was diagnosed with Influenza B, but he was sent back into custody and given flu medication. He died while under observation on May 20.<sup>20</sup>

Multiple factors contributed to the deaths of these children, many of them related to other human rights violations such as holding children in inhumane conditions and providing inadequate health screening and healthcare. But it is striking that all were Indigenous. There is little doubt that their indigeneity, through discrimination, denial, or lack of language access, intersected with the factors leading to their deaths. As the Indigenous language knowledge keeper noted in the quote beginning this section, "our Indigenous languages have been murdered and our knowledge destroyed." These deaths are the real-life consequences of that reality. They are an expression of settler state performance at the border.

### Institutional Limits to Reform

On the issue of language access, and given the failures that led to these deaths, DHS has been making some institutional efforts to address the deficiencies with respect to Indigenous language speakers. These efforts are hampered by structural and bureaucratic limitations. For example, DHS only contracts with large, corporate interpreter

services, rather than partnering with community-based interpreter organizations like CIELO. Conditions at the border, in detention centers and holding facilities, are already extreme in their remoteness, rendering encounters with Indigenous migrants primarily punitive and exclusionary. Border Patrol agents exhibit a racial bias toward Indigenous people, resulting in feelings of superiority and discriminatory behavior, erasure of Indigenous identity, and misclassification as Latinos as previously described by Odilia. Agents are not adequately trained to identify and assess Indigenous language needs. Interpreter services, when provided, often occur only further downstream in the process—for example, when individuals appear in court—and are frequently conducted by phone.

In August 2019 we participated as subject matter experts in an Indigenous Language Roundtable sponsored by the DHS Office of Civil Rights and Civil Liberties and the DHS Language Access Working Group. Among other things, we advocated for the DHS to fund community-based interpreter organizations and provide them with access to detention facilities and shelters to help identify Indigenous language speakers, inform them of their rights, and facilitate interpreter services. DHS has not acted on that recommendation, and as Odilia’s recent experience at the San Diego shelter exhibits, the need is more urgent than ever.

## KEY POINTS

- The migrant crisis at the southern border has a largely unrecognized and unquantified Indigenous face.
- Indigenous languages have been “murdered” according to one Indigenous language knowledge keeper. The interpreter profession and the Western model of interpretation are inherently exclusionary and deficient with respect to Indigenous language interpretation and language work from the perspective of Indigenous language knowledge keepers.
- The right to language access is limited by law based on factors like number of speakers and available resources. Multiple structural and bureaucratic barriers exist to effective interpretation in Indigenous languages.
- Indigenous women and children are particularly vulnerable to harms created by settler colonial performance.

### Critical Thinking Questions

What is the impact of the failure to identify and recognize the indigeneity of migrants at the border? What could be done to remedy this? What differences exist between interpreting from the perspective of an Indigenous language knowledge keeper and interpreting from a Western perspective?

## IDENTITY AND LANGUAGE SOVEREIGNTY

Language is inextricably linked to cultural identity. The two frequently appear together in human rights instruments, along with values and belief systems. The intimacy between language and identity is also affirmed by modern psychology. Language embodies the worldview of a people, as exhibited by the Rosa Quintero case. If you have had the experience of being in a place or with a group where you did not understand the language being spoken, you probably felt the social exclusion and isolation that accompany it.

### Language Sovereignty

The intimacy between language and identity, personal and social, makes it an important element of human dignity. To deny one's language, to strip an individual of their language and ability or right to communicate, is in effect to strip them of their identity and human dignity. It is no surprise that efforts to deny or punish the use of one's language are linked to practices of cultural and physical genocide. Language revitalization is a key element of the reclamation of Indigenous sovereignty, self-determination, and survivance following centuries of settler logics of genocide and elimination. As seen in this chapter, for many communities of Indigenous migrants, it continues to be a matter of life and death.

In the struggle against settler colonial logics, language for Indigenous people is a site for the exercise and reclamation of sovereignty. For Indigenous people, language sovereignty involves the preservation and assertion of their language and Indigenous ways of knowing, the demand for recognition of their identity, and engagement with the broader society on terms of equal dignity. Their dignity as a people is continually threatened by the dynamics of invisibilization, and this is felt keenly in the denial of their indigeneity and language rights.

For Indigenous migrants, the denial of these rights is particularly acute and exposed at the border. The settler-imposed border is a physical, political, and psychological barrier for Indigenous people to their dignity as a people and as human beings. As we have noted, the border is a critical site for the performance of settler colonialism through the political technologies of the state. The denial of indigeneity and language rights continues, however, even in diverse communities such as Los Angeles; despite the vital role these migrants play in the economy as essential workers, they continue to experience erasure, discrimination, and lack of access to public services.

The work of CIELO teaches us that, when appropriated by the impacted community as a project of language sovereignty, the struggle for language rights and language access can transform the way in which interpreter services are provided and dismantle the structures that reproduce the barriers to access to effective communication and their related harms. Language sovereignty is an instrument of empowerment and political sovereignty. Conscious that they are asserting and preserving their identity through language, Indigenous people taking control of their language rights can reshape the human rights frame. In this sense, language sovereignty from an Indigenous perspective is a critique of the human rights frame where it protects the interests of the settler state in setting the terms of language access and interpretation itself.

### Language, Rebellion, and Resistance

We use the term "language sovereignty" and the exercise of language sovereignty to describe the inspiring work of CIELO, but we are cautious in making that assertion. As social scientists or critical scholars of human rights, we are confident that the practice of CIELO embodies the notion of language sovereignty in a striking manner. However, Odilia reminds us that from her experience and perspective, they have not achieved language sovereignty. Rather, their experience is from a place of the denial of their language and identity. For her and her community, it is a struggle they understand will take many years to realize under the current circumstances, such that she

cannot yet clearly see the day it would become a reality. She reminds us that to speak an Indigenous language in a court of law, and in this settler society's court in general, is an act of rebellion and resistance.

This brings us back to the dilemma planted earlier: can the struggle within a human rights framework be transformative? Only a practice that arises from the excluded communities and contests the way power and oppression are embedded in those very frameworks which it uses for struggle can lead to transformative change. Using a human rights frame is one tool of movements for social change. When they come up against its limitations—think of constraining legal frameworks like Title VI, or states' failures to effectively respect, protect, and promote those rights, as in the cases at the border—social movements must decide whether to use or abandon those tools or demand they creatively change in the understanding of the human rights frame itself. Some of the work may involve invoking the frame against the state, while other work may point to a different horizon that asserts rights from the perspective of those whose human dignity has been denied. When actors are conscious of the operation of those structures that have caused their exclusion, it is more likely that their practice will lead in a transformative direction. Such is the rebellion and resistance of which Odilia speaks.

CIELO uses a human rights and Indigenous rights frame to describe their work and engage other social actors. Both formally and informally, public entities and service providers are turning to CIELO precisely because CIELO has organized and mobilized their own communities of Indigenous language speakers to provide not only interpreter services but also cultural training and consulting. Their work from an Indigenous perspective, from the Indigenous position of the denial of their rights, directly challenges the oppressive structures embedded in these systems. They are similarly making a mark on the interpreter profession from their particular Indigenous perspective and knowledge. While changes in the system may be slow and imperceptible due to the institutional barriers, the direction of CIELO's practice and logic is unmistakably transformational. At the same time, it is an act of resistance to the settler logics of denial and invisibilization and an affirmation of the humanity and human rights of their communities.

## KEY POINTS

- Language is a core element of human dignity, embodying one's personal and social identity, worldview, and effective means of communication.
- Control over one's language—recognition, revitalization, and effective communication—is an exercise of language sovereignty for Indigenous people and an act of resistance to settler-imposed logics of invisibilization and elimination.
- The struggle for language rights, appropriated by CIELO as a project of language sovereignty, is an instrument of empowerment and transformation.
- Use of the human rights frame can be transformative when it contests structures of power and oppression, even where they are embedded in the frame itself. Actors from excluded communities like those of CIELO, impacted by those structures and denied their human rights, reveal in their own human rights practice a capacity for structural transformation and a unique and distinct human rights horizon.

### Critical Thinking Question

How does the practice of CIELO question the human rights frame even as it uses it?

## CONCLUSION

In this chapter we have tried to unpack the context, meaning, and experience of the work of CIELO around language rights and language sovereignty. The evolving framework on the rights of Indigenous peoples represents a unique instance of the application of general human rights principles to the history and situation of Indigenous peoples. This required an understanding of settler colonialism as a structure with ongoing logics of erasure, racialization, and elimination of Indigenous people. We also recognized the problem of colonialism embedded in the human rights frame and proposed a decolonial turn in human rights activism by aligning with communities in struggle to define their own human rights horizon.

The particular human rights activism of CIELO starts from a place of denial of the humanity and human rights of their Indigenous communities by failure of the larger society and its institutions to recognize their indigeneity and language. With language and identity as our entry points, we analyzed some of the specific vulnerabilities and harms endured by Indigenous migrants to the United States as a result of ongoing settler logics. We followed CIELO's work on these issues as they seek to decolonize the work of interpretation, visibilize their communities, and assert language sovereignty.

We believe CIELO's work has not only strategic value in addressing the needs and harms suffered by the Indigenous migrant community but also the potential for transformation because it is rooted in an Indigenous perspective. Language sovereignty is inherent to the dignity of Indigenous peoples and belongs squarely within the human rights frame, but it remains a goal on the human rights horizon, seen and discerned from the struggle of communities like that of Odilia and the many Indigenous people that CIELO serves.

## QUESTIONS

### Individual Review Questions

1. How does the misidentification or misrecognition of Indigenous migrants contribute to the human rights harms they suffer?
2. What makes UNDRIP unique among human rights instruments?
3. How do Indigenous sovereignty and survivance mesh with the Western-centric human rights framework? What are some specific tensions?
4. What is a human rights horizon, and how is it related to social transformation? Why is grounding in social struggle important to this concept?
5. What are some of the limitations or defects of the present system of interpretation at the US-Mexico border?
6. Why, from a human rights perspective, is the protection of Indigenous language sovereignty so important?

### Group Discussion Questions

1. What is settler colonialism and what are some contemporary examples of its logic at work in our world today?
2. What is a human rights horizon?

3. The chapter discusses Indigenous migrants' vulnerability at the US-Mexico border. Can you make analogies between this case and similar cases of human rights vulnerability at this or other borders?
4. What are some advantages and liabilities of the existing human rights framework for enabling struggles for Indigenous people's rights?
5. What other social movements using the human rights frame do you think have the potential for transformative change? How and why?

## FURTHER READING

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Seminal works on settler colonialism.



## WEB LINKS

- <https://mycielo.org/> Explores the work of CIELO.
- <https://www.mayanleague.org/> A leading Mayan-led organization in the United States advocating for the rights of Mayan people.
- <https://www.un.org/development/desa/indigenouspeoples/about-us.html> UN activities and resources regarding Indigenous peoples
- <https://www.ohchr.org/en/issues/ipeoples/srindigenouspeoples/pages/sripeoples>
- [index.aspx](#) Site of the UN Special Rapporteur on Indigenous peoples and corresponding reports.
- <http://www.endangeredlanguages.com/> This website includes an interactive map of Indigenous languages.
- <https://indigenouslylanguages.unt.edu/resources> A wealth of resources and links on Indigenous languages.

## NOTES

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