

## **Translation Policies and Community Translation: the U.S., a case study**

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### **ABSTRACT**

While community interpreting has attracted considerable attention in the last two decades, its counterpart, *community translation*, represents an under-researched area in Translation Studies (International Conference on Community Translation 2014, Call for papers). With a view to narrowing this gap, the article starts by analyzing the concept of “community translation”, and then moves to that of translation policy. After situating translation policy within the concept of language planning and its categories (corpus, status and acquisition planning), the author then addresses a specific case study, that of translation policies and community translation in the U.S. at the federal and state levels, the latter of which focuses on California. While surveying and comparing translation policies at these two levels, the author also examines to what extent these policies, and the presence or absence of penalties for their noncompliance, lead to different degrees of regulation of community translation practices.

**KEYWORDS:** translation policies, community translation, United States of America, language planning.

### **1. Introduction**

While community interpreting has attracted considerable attention since the first Critical Link conference in 1995 (Vargas Urpi 2012), its written counterpart, *community translation*, remains an under-researched area that “has not received the interest it deserves in terms of research, publications and conferences” (International Conference on Community Translation 2014, Call for papers). Even the fact that the word *interpreting* tends to precede *translation* in the coined term “public service interpreting and translation”, or in publications in the field (e. g.

“Interpreting and Translating in Public Service Settings: Policy, Practice and Pedagogy”), can be seen as symptomatic of the secondary role that the study of translation plays in the community context. With a view to helping to narrow this gap, this article focuses on community translation, specifically in the United States of America—a case study that, to the best of my knowledge, has not been examined in depth to date.

More specifically, I will approach community translation from the perspective of translation policies as they relate to community languages, since I argue later in this article that the practice of community translation presupposes the existence of translation policies. With the aim of providing a broad overview of translation policies in the U.S., I will adopt a top-down approach, starting at the federal level and then proceeding to the state level with the specific case of California.<sup>1</sup> In order to do so, I will examine policy instruments (e.g. acts, executive orders, propositions, guidances, and planning tools) that specifically address translation, but I will occasionally resort to reported community translation practices as found in audit reports that investigate compliance with translation policies. Ultimately, the analysis of these documents will allow me to examine to what extent these policies and their different degrees of compliance shape community translation practices.

However, it is essential to first define and situate the key terms mentioned above—viz. community language, community translation, and translation policy—not only because they have been contested at times or used to refer to many disparate concepts, but also because their definition will help delimit the scope of this article and anchor the conceptual discussion that runs through it, hence the ensuing terminological section preceding the analysis of the case study presented in the second part of the article.

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<sup>1</sup> Since my focus is community translation, I examine translation policies *within* the territory of the United States; in other words, the study of translation policies as foreign policies is beyond the scope of this article.

## **2. Towards an operational definition of community language, community translation and translation policy**

According to a recent call for abstracts from the “First International Conference on Community Translation”, which took place in Sydney, Australia, in September 2014, *community translation* generally refers to the “translation of different types of texts intended to facilitate communication between *public services* and *people who do not have a good command of mainstream language(s)*” (International Conference on Community Translation 2014, Call for papers, emphasis added). In turn, the call for proposals for the “Translation as a Tool for Inclusion/Exclusion in a Multicultural Society” Conference in June 2014, from which the present special issue derives, states that community translation “focuses on the translation of texts produced by *public services* for the benefit of *speakers of less-established languages*” (Translation as a Tool for Inclusion/Exclusion in a Multicultural Society 2014, emphasis added). Although these two analogous definitions are a good starting point, they contain two elements that can be considered problematic for the purposes of this study: the term “public services” (as it is well known, community translation is also called *public service translation*) and the noun phrase “people who do not have a good command of mainstream language(s)” or its equivalent, “speakers of less-established languages” (in other words, the “community”).

With regard to the term “public services,” we must tread cautiously, as the concept of “public service” can differ greatly from country to country, even when comparing developed countries. For instance, the two countries that will be mentioned most and occasionally compared in this article, Canada and the United States,<sup>2</sup> are a good example of such differences. In Canada, the term “public service” refers first and foremost to the civil service of the federal government, where translation only takes place between the two official languages of the country (i.e. English and French) rather than between these two languages and other “community” languages. For this reason, the term *public service translation* will be avoided in this article.<sup>3</sup> With regard to the

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<sup>2</sup> For the purposes of this article, I will focus on the U. S., but I will compare it with Canada at times, because these two North American, highly industrialized and primarily Anglophone societies present both clear similarities and interesting differences in the way they manage multilingualism.

<sup>3</sup> In a similar fashion and perhaps for the same reasons, the term “public service interpreting” has not won widespread currency in Canada, and, instead, “community interpreting” is the most widely accepted term (National Standard Guide for Community Interpreting Services 2007:10).

second term, we could first ask what exactly constitutes a “mainstream” language. Is not Spanish “mainstream” or “established” in the U.S., especially in certain states or municipalities? The rationale behind the choice of words in these definitions is understandable, but it stands to reason that the definition of CT calls for more precision for the purposes of this study.

A 1996 article by Holly Mikkelsen takes a step towards more precision by employing a definition of *community interpreting* taken from the announcement of the First International Conference on Interpreting in Legal, Health and Social Service Settings: “Community Interpreting enables people who are not fluent speakers of the *official language(s)* of the country to communicate with the providers of public services so as to facilitate full and equal access to legal, health, education, government, and social services” (Carr et al., quoted by Mikkelsen 1996, emphasis added). Although Mikkelsen’s definition refers to interpreting rather than translation and is analogous to the definition previously mentioned, it adds an element of clarification, which, in my opinion, has a greater explanatory power: mainstream or dominant languages are, in fact, official languages (whether de jure or de facto), whereas community languages are not. With this in mind, it is important to point out that the characteristic of “minority”, “minoritized”, “dominated” (the latter used, for instance, by Bourdieu 1994 and Casanova 1999) or “peripheral” (Calvet 2006) does not necessarily make a language a “community language”. For example, in Canada, French belongs to a historically minoritized community (at least outside the Francophone province of Quebec), but providing services in French so that the Francophone official minority has full and equal access to legal, health, education, government, and social services usually falls outside the realm of what is considered community translation or interpreting in this country. In contrast, in the U. S., Spanish is not strictly the language of a minority—Latinos outnumber whites in California today (Hugo Lopez, Pew Research Center 2014)—but rather that of a “minoritized majority”; however, its non-official status makes it, by default, a “community language”.

Besides a language’s status as official or non-official, our definition can also be expanded to include the fact that “community languages” are generally the product of relatively recent

immigration.<sup>4</sup> In this regard, it is worth noting that although aboriginal languages are not official languages in the U.S. or in Canada (with the exception of the territory of Nunavut in the case of the latter), they are also generally not included when referring, for instance, to community interpreting training and certification. In Canada, not a single aboriginal language is included in the list of languages offered for the two existing tests used to assess community interpreters' language skills—the Community Interpreter Language and Interpreting Skills Assessment Tool (CILISAT) and the Interpreter Language and Skills Assessment Tool (ILSAT). Similarly, the tools designed to assess court interpreters' skills in the U.S. are not available in any aboriginal language; testing in Navajo was once offered at the federal level in order to become a federally certified court interpreter, but is no longer an option.

Equipped with a more delimited definition of community languages, we can now infer an operational definition of community translation that, for the purposes of this article, might look like this: Community translation involves the written translation of different types of texts intended to facilitate communication in legal, medical, educational, government and social service settings between the providers of services in these settings, who communicate in the official language(s), and the users of community languages who have not sufficiently mastered the official language(s) of the territory (be it a country, state, province, etc.) where the communicative exchange takes place.

At this point, having outlined the conceptual contours of the term *community translation*, I will proceed to examine the next key concept of *translation policy*, as I believe that its analysis is central to understanding community translation practices and their modalities (e.g. reactive versus proactive practices, regulated vs unregulated practices). It is worth mentioning that, despite its centrality, as well as its relevance to any multilingual democracy, as other authors have rightly noted (Díaz Fouces 2001; Meylaerts 2010, 2011; Kaufmann 2012; González Núñez 2014), the term *translation policy* has remained to some extent a blind spot not only outside the field of TS, but also within the field. Only a few studies outside TS explicitly address the role of

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<sup>4</sup> In spite of this distinctive feature in my definition, I will however avoid the term “immigrant language”, like other TS scholars have done (see González Núñez 2014: 74), as not all speakers of “community languages” are immigrants, but were born in the country that hosted their parents or grandparents. It is certainly the case of Spanish for some U.S.-born Hispanics.

translation in national (public) language policy or language planning, while within the field of TS itself, the term has been used to cover such a variety of meanings by so many different authors<sup>5</sup> that, as Meylaerts (2011:163) states, it has become “an umbrella term or a container concept [that risks] becoming an empty notion with little conceptual surplus value.” The present article will, however, only be concerned with definitions that link translation with language policy and language planning.

Although several scholars in TS have called attention to this link, it is generally a neglected research area (Díaz Fouces 2001, 2004; Meylaerts 2011; González Núñez 2014, among others). One of the few and, to the best of my knowledge, the first to have examined the connection between translation and language planning in depth is Díaz Fouces (1998, 2001, 2002, 2004, 2010). Specifically, he studies the role of linguistic mediators<sup>6</sup> in the four sub-processes of language planning (Díaz Fouces, 1998:629)<sup>7</sup>: (1) selection (i.e. selection of the problem that the planning intervention aims to solve), (2) codification or standardization (i.e. standardization of the normative language variety to be used through the codification of spelling, grammar and normative dictionaries), (3) functional implementation (i.e. spreading the planning tasks outlined above) and (4) functional elaboration (i.e. terminological modernization or new terminology development, as well as stylistic development of a language variety). Following Haugen, Díaz Fouces points out (ibid.) that codification and elaboration are related to the category of *corpus planning* and that selection and implementation are related to that of *status planning*. To these two categories proposed by Kloss (1969), Robert L. Cooper (1989) will add a third one some years later, *acquisition planning*, that will also be recaptured later in our discussion. Díaz Fouces then presents a framework (2001) in which, methodologically speaking, linguistic mediation planning (LMP) can be considered as part of three other types of planning whose areas of intervention overlap in some ambits with it. These types of planning are mass media planning, planning of the cultural milieu and language planning, which, in turn, Díaz Fouces considered to

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<sup>5</sup> Meylaerts points out that, within TS, the term *translation policy* “designates official institutional settings (...) but also a wide range of relatively informal situations related to ideology, translators’ strategies, publishers’ strategies, prizes and scholarships, translator training, etc.” (2011:163).

<sup>6</sup> He uses the term *linguistic mediation* to encompass translators, interpreters and other related professionals, such as subtitlers, editors, etc.

<sup>7</sup> Díaz Fouces presents a model resulting from the synthesis of two well-known models in the LP literature proposed by Haugen and Robin. The complete model is described in Díaz Fouces (1998:629).

be part of the more general category of “cultural policies” (2001:126; 2002:86; 2004:3).

Alternatively, he enthusiastically proposes to engage in an exercise of abstraction by considering linguistic mediation planning as a discrete category, resulting in a second framework in which LMP presents its specific areas of intervention (2001:127), areas that he relates to three forms of social control: (1) “control de acceso” [control of access], (2) “control de ejecución” [control of execution] and (3) “control de impacto en el sistema lingüístico” [control of the impact on the linguistic system]. The first form of control has to do with what is selected (or not) for translation; the second one concerns the professional socialization of the actors involved in linguistic mediation, which includes recognition and definition of the profession, in addition to regulating the mechanisms to access the profession (regulation of translator education and/or certification, for instance), as well as regulating professional practices (that is, the existence and enforcement of professional ethics and standards); finally, the third form of control concerns the regulation of the mediators’ role as key actors in the process of language standardization.

While the second framework presented by Diaz Fouces clearly resonates in this article, based on the data obtained in my specific case study, methodologically speaking, I have chosen not to treat translation policies as a discrete category but rather as part of the more general category of language planning.<sup>8</sup> Likewise, I prefer to consider language planning as part of public policies in general,<sup>9</sup> instead of as part of “cultural policies”, given that, though it may be justifiable in certain contexts where translation fulfils a primary symbolic function (and is mainly concerned with cultural promotion), it is not very helpful in cases like that of the U.S. (and many others), where, more often than not, community translation responds to a very real communicative necessity. After all, however inclusive the concept of culture may be, it is difficult to consider the translation of an informed consent form in a hospital as part of a cultural policy.

Indeed, Meylaerts proposes that translation policy be only defined “as a set of legal rules that regulate translation in the public domain: in education, in legal affairs, in political institutions, in

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<sup>8</sup> In the case of the U. S., translation policies are part of more general language policies, such as Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, at the federal level, and the *Dymally-Alatorre Bilingual Services Act*, at the Californian state level.

<sup>9</sup> As Diaz Fouces does himself in his more recent work in progress (personal communication with Oscar Diaz Fouces, December 22, 2015).

administration, in the media” (2011:165). In other words, Meylaerts restricts this term to its relation to language policy, and more specifically, to language planning (which, as I will explain below, can be thought of as explicit policy action). Meylaerts’ overreliance on the explicit dimension of policy in the above definition leads González Núñez (2014) to add two elements to the definition: “Meylaerts’ definition can be conceptually linked to language management [another term for language planning], and then even be referred to as a form of translation management. Yet translation policy can also be understood to cover matters of practice and belief” (2014:80). The management-practice-belief triad may certainly be useful from a methodological standpoint, particularly for González’s case study (translation policies in the United Kingdom) and similar cases where the existence of explicit or overt translation policies is rather uncommon,<sup>10</sup> meaning that focusing on the management dimension may in fact be practically impossible. However, such a focus may be less necessary in contexts where more explicit and developed translation policies and translation management can be found, such as in the U.S., or in other contexts that Meylaerts may have had in mind when proposing her definition. In fact, in this article, I have chosen to favour the planning or management element of González Nuñez’s definition.<sup>11</sup> More specifically, I will situate the term *translation policy* within an overarching spectrum that goes from language rights, through language policy, to language planning, and I will argue that it is within *language planning* and its three main categories—corpus, status and acquisition planning—that the concept of translation policy can be fully understood and properly defined.

I will begin describing this spectrum with descriptions of its levels, which should not be seen as discrete categories but rather as facets with blurred boundaries. The first of these levels is *language rights*. Recognizing language rights may be thought of as the first step to managing linguistic diversity. While this may be taken for granted nowadays, it is appropriate to highlight recognition of linguistic diversity as a relatively recent phenomenon; at the supranational level,

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<sup>10</sup> In the absence of overt policy actions, or when policy documents were not available, the author considered covert policy actions based on self-reported practice. Specifically, he obtained such reports of practice by filing Freedom of Information Act requests with specific questions regarding translation practice of the institutions that provide translation in specific domains where there is interaction between government and citizens (2014:62). He also studied reported beliefs about translation as found in policy documents and practice.

<sup>11</sup> Obviously, this does not mean that beliefs and practice will be completely absent from my analysis. However, unlike González Núñez, I will not structure my study around these three elements.



for instance, UNESCO signed its first Universal Declaration of Linguistic Rights in 1996. Prior to this, declarations of human rights did exist, but there was no declaration that specifically addressed linguistic rights. Many more examples of this late recognition can also be found at the national level.

However, recognition in and of itself is not sufficient; concrete legislation is needed to protect that recognition, and preferably it should be at the national level, since, more often than not, supranational declarations are not legally binding. This is precisely where the concept of *language policy*, the second level in our spectrum, enters into play. As the famous French sociolinguist Louis-Jean Calvet states (2006): “Language policy is the entirety of conscious choices concerning relations between language and life in society”. It is the expression of the relationship between language and power in society. The act of making a language official can have major consequences in the status of the language; it is a deliberate choice that can have a real impact on the protection (i.e. continued survival) of a language, which is of paramount importance in the case of minority or minoritized languages.

However, elaborating language policies may not suffice either. This takes us to the comprehensive concept of *language planning*, the last level in the spectrum. Language planning (LP) is generally defined as the concrete enactment of a language policy (ibid.). Here, we truly pass from the realm of declarative statements, sometimes with few or no legal consequences for non-compliance, to more tangible action. Mar-Molinero argues that language policy has to do with the explicit and implicit decisions regarding language use, while language planning is restricted to the explicit means whereby that policy is put into practice (2005:74-75). In other words, language planning can be thought of as explicit or overt policy actions codified in policy documents. In this sense, Calvet (2006) highlights that any group can create a language policy, but only the State has the power and the means to plan and implement its political choices, and the ultimate goal of these choices is to redress—or, in some cases, reaffirm—asymmetries in the relationship between majority and minority (or minoritized) groups.

It is generally accepted that what might be called “comprehensive” language planning comprises three interrelated categories (Stewart 1968; Kloss 1969; Cooper 1989, just to cite the first authors who used these categories): corpus planning (i.e. interventions focused on the form of the language), status (i.e. interventions aimed to elevate a language to a prestige variety), and acquisition planning (i.e. intervention focused on fostering the learning and teaching of a given language). Although they are not discrete entities, dividing LP into three categories allows us to place different responsibilities and tasks on specific bodies or individuals, as Mar-Molinero (2005:74) indicates:

A programme of corpus planning will necessitate the participation and leadership of language experts. Whereas status planning is more likely to be led by administrators in close contact with politicians, if not actually politicians, acquisition planning is of course the domain of educators above all. The role of other groups, such as the media, the business world, or religious bodies, is also of great importance especially in the development of status planning, but this is usually done in conjunction with government officials, linguists or teachers.

Furthermore, as this paper will show, dividing LP into these three categories and situating the role of translation within each of them is also very convenient from a methodological standpoint, as it allows us to systematically identify all the specific areas of LP activity where translation can play a role, as well as to examine whether this role is accounted for at the policy level. While more concrete examples will emerge later from the policy documents reviewed in the case study, for the time being, I will illustrate by means of general examples how translation fits within the three LP categories presented.

As I briefly mentioned before, *corpus planning* refers to the form of the language. In the case of French in Canada or Spanish in the U.S., the focus of this type of planning would be, for example, the standardization of the language varieties in question (Canadian French or U.S. Spanish). In other words, prescribing their standard norms in spelling, grammar, lexicon, etc. An important part of the work of corpus planners lies in the elaboration of new terminologies and vocabulary to respond to the new realities for which the language is being used; the development of terminology for the *common law en français* in Canada is an illustrative example. In the U.S., however, the work on corpus planning for Spanish has so far been rather limited and

underfunded (or not funded at all) by the U.S. federal government. In fact, most work so far has been carried out by the Academia Norteamericana de la Lengua Española (ANLE), which relies primarily on donations.

As others have noted, translation plays a central role in corpus planning, specifically in the process of linguistic normalization, “either as a way to bridge structural and stylistic gaps, as a means of selectively importing linguistic resources related to material and human progress, or, undoubtedly, as a mechanism for stabilizing and spreading the forms that result from linguistic codification (spelling, grammatical or lexical)” (Díaz Fouces 2004:7, my translation). In other words, apart from being a central mechanism to spread and fixate a new linguistic variety in terms of spelling, grammar and lexicon (e. g. Canadian French or U.S. Spanish), translation forces us to create terminology for new domains and realities that may not exist in a given language (e.g. U.S. social realities in Spanish that may not exist in other Spanish-speaking countries). The role of translators in this area is so central that, as Kaufmann argues (2012:335), language planners should consider translators as partners in the formulation of language policy planning rather than just as tools.

The second category of LP, *status planning*, aims to promote the status of a language by encouraging its use, especially in the key public domains (government, courts, hospitals, schools, and the like, but also the media), and to provide the necessary resources to do so. Status planning also seeks to encourage positive attitudes towards a given language, for instance by increasing its use by public figures (Mar-Molinero 2005:73). In this respect, translation and the systematic implementation of translation policies can also be a central tool at the service of status planning; the more documents that get translated, for example, into Spanish in U.S. hospitals, courts, social services and other settings, the more speakers will use Spanish in formal settings and the more they will see the language as something not limited to domestic use (as it is often perceived in the U.S.), and this, in turn will have positive repercussions on how the language is perceived in the society as a whole.

Finally, *acquisition planning* focuses on promoting the learning of certain languages, primarily through education at different levels. All bilingual school programs that exist in the U.S. could be considered an example of acquisition planning. But does translation play a role in language acquisition? In principle, it might be argued that the more people learn a language, the fewer translators (and interpreters) are needed. According to that logic, translation policies and language learning initiatives could be seen as opposites. In practice, however, a combination of language learning and translation exists in most multilingual societies, as Pym (2008) has previously noted, even in those where language learning is highly promoted. For instance, in the U.S., the promotion of English-Spanish bilingual education at the federal level does not seem to have altered the fact that the U.S. Bureau of Labor Statistics projects 42 percent growth in the translation industry from 2010 to 2020, outpacing average growth for most other occupations studied in their report (Bureau of Labor Statistics, 8 January 2014). And in high-risk situations in domains such as defense, the need for trained translators and interpreters has also been recognized. For example, Pym et al. (2013:116) cite the report *Language and culture capabilities: The importance of integrating translation and interpretation pedagogy into general language training*,<sup>12</sup> which opens with the following quote from Glenn Nordin, Foreign Language Advisor to the Under Secretary of Defense for Intelligence:

We know that we must build an organic civilian and military language workforce of *translators, interpreters, negotiators and language analysts*, capable of supporting our steady State needs and vetting the contract capabilities needed during surge [periods] (Senate Hearing on Foreign Language Skills, 21 May 2012; emphasis added, quoted by Pym et al. 2013:116).

To summarize, the combination of language learning and translation that Pym et al. (ibid.) employ to explain how most IGOs and NGOs manage multilingualism can be applied equally well to States. In principle, there is nothing preventing the existence of a multilingual society where community language learning is highly encouraged while at the same time a pool of professional translators or interpreters in that language is also trained and hired for more specialized or high-risk situations. Moreover, with regards to the relationship between

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<sup>12</sup> Published by CyraCom International, an Arizona-based company that provides consulting services to U. S. defense forces and security agencies.

acquisition planning and translation, I believe that the regulation of translators' education (which, simply put, consists of acquiring a language at a higher level of proficiency, as well as other more specific skill sets), the recognition of that education (and/or some form of certification) as a requirement to enter the profession, as well as the enforcement of professional standards and ethics for those already practising the profession—all of which corresponds to what Diaz Fouces called “control of execution”(2001)—could fall within the realm of acquisition planning, and, in fact, should be a central component of it. In fact, I will argue that regulation of the profession and its access<sup>13</sup> are the last links of the chain in the adoption of truly comprehensive language planning.<sup>14</sup>

At this point of the discussion, bearing in mind all the terminological and conceptual nuances presented, for the purposes of this article, *translation policies* can be defined as conscious choices made by public powers at different levels of government, and supported by the concrete allocation of resources, in order to guarantee and regulate the provision of translation services into and out of community languages in legal, medical, educational, government and social service settings. Translation policies also involve conscious choices to regulate the profession of the mediators that perform these services. Moreover, in this section, I have proposed to situate translation policy within the concept of language planning, and its three different categories (corpus, status and acquisition), as these categories allow us to represent the multifaceted nature of language policies as tools to spread a standardized language variety, elevate the status of a language, or enable the institutionalization of the education or certification of translators that those translation policies may lead to. In fact, if sufficiently developed, and their areas of intervention well defined, translation policies can become translation planning.

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<sup>13</sup> For a more detailed development of the concept of “professionalization” and how different models of it apply to translators and interpreters, see Pym 2013: 80-84.

<sup>14</sup> In fact, few countries regulate the translation profession, which may suggest that this aspect constitutes a level of development that is not easily attainable in terms of language planning. For instance, Pym shows in the report *The Status of the Translation Profession in the European Union* (2012) that the generic activity of translators appears not to qualify as a “regulated profession” in terms of Professional Qualifications Directive (2005/36/EC): an unqualified person cannot be prevented from working as a translator, except under a 2007 law in Slovakia. Concerning non-official EU languages, the absence of regulation is even more accentuated (ibid.).

However, if in theory “any language policy presupposes a translation policy” (Meylaerts 2011:165), in practice how many language policies address translation explicitly? In order to find well developed translation policies, we need to move beyond the level of language policy and further into the spectrum presented beforehand, until we reach the realm of organized and systematic implementation. In fact, I argue here not only that the existence of translation policies presupposes the existence of well-developed language planning, but also that, in fact, the (non)existence of translation policies can be used as a vector to measure and assess comprehensiveness of language planning in a given demolinguistic context. While Heilbron (1999) and Calvet (2007) have already brought to light the importance of translation as a vector to measure the centrality of a language within a world language system (the more central a language, the more translations out of that language and the fewer into it), I propose here, as a working hypothesis, a new use of translation as a tool to measure the degree of language planning implementation: Translation policies—and needless to say, translation planning—are only present in societies with an advanced degree of language planning.

Furthermore, I argued at the beginning of the section that the concept of translation policy is central to understanding community translation practices, hence the time devoted in this paper to its conceptual development. In this respect, I would like to nuance that the relationship between community translation and translation policies is not unidirectional; community translation presupposes the existence of translation policies (i.e. for community translation to exist, we need translation policies that make it possible), but translation policies can also be implemented due to the existence of informal and non-regulated community translation practices already in place. Ultimately, however, these practices will be reshaped and transformed by those same translation policies that they give rise to. This is to say that translation policies and community translation practices affect each other and are two interrelated concepts that can be productively analyzed together, as this article will illustrate. More specifically, in the section that follows, I will examine to what extent existing U.S. translation policies at different levels of government (federal and state) and the presence or absence of penalties for their noncompliance lead to different degrees of regulation of community translation practices.

### **3. Translation policies and community translation in the U.S.: a case study**

In shifting our focus to the case study, I would like to borrow from Meylaerts's typology (2010) of ways in which governments can manage multilingual societies, and suggest that the one that best applies to the U.S. context is "institutional monolingualism combined with occasional and temporary translation into the minorities' and migrants' languages" (Meylaerts 2010:228-229). As Meylaerts explains, this strategy "(...) is based on the idea that restricted translation furthers integration and emancipation of minorities and migrants" (ibid.). Interestingly enough, despite this official monolingualism, the analysis that follows will reveal that the U.S. stands out as a country where the existence of explicit and developed translation policies pertaining to community languages is the rule rather than the exception, unlike what is found in other contexts of official multilingualism.<sup>15</sup>

In the sections that follow, I will give an overview of how the U.S. manages multilingualism by reviewing translation policies. I will then examine the degree of comprehensiveness of these policies within a general language planning strategy to see whether these policies ultimately pave the way for regulated and professionalized community translation practices. In order to do so, drawing on the language planning categories presented beforehand, I will adopt a top-down approach and survey policy documents that address translation, first at the federal level and then at the state level, where I will limit myself to California. The federal level was initially chosen not only because the U.S. federal government has jurisdiction over important domains of public activity throughout the entire country, but also because the federal government funds domains of public activity (i.e. imposes its policies, demanding compliance otherwise funding is cut) that fall within the jurisdiction of the states. Furthermore, as this research progressed, I found that the examination of federal policies proved to be particularly useful as a central point of comparison with Californian translation policies in terms of the existence versus nonexistence of penalties for non-compliance with translation policies, as is discussed next.

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<sup>15</sup> In the cases of Spain and Ireland (O'Rourke and Castillo 2009), the United Kingdom (González Núñez 2014), the EU in general (Díaz Fouces 2005), explicit translation policies concerning community languages are almost nonexistent.

At the same time, the federal government's responsibility and funding does not extend to all fields of public activity, hence the need to examine translation policies at other levels of government. For instance, education is primarily a state and local responsibility, and according to the U.S. Department of Education website,<sup>16</sup> of an estimated \$1.15 trillion spent nationwide on education at all levels for the school year 2011-2012, a substantial majority came from state, local, and private sources; at the elementary and secondary level, about 87.7 percent of funds came from non-federal sources. I would like to clarify that I have chosen California for analysis at the state level not only because of autobiographical reasons (it is where I work), but also because this state presents a demolinguistic panorama that clearly calls for the existence of translation policies and the formal development of community translation practices to guarantee communication with its 6.9 million limited English proficiency (LEP) residents (data from 2010), the highest number of any state in the United States.

### *The federal level*

At the federal level, Title VI of the Civil Rights Act of 1964, which "[...] prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance", and *Lau v. Nichols* Supreme Court Case (1974), which established the idea that language-based discrimination is effectively a proxy for national origin discrimination, can be considered the prelude to the formulation of policy that explicitly addresses translation into community languages;<sup>17</sup> although Title VI and *Lau v. Nichols* do not address translation *per se*, they can certainly be seen as leading to it.

Continuing in the footsteps of these previous policy instruments, Executive Order 13166 (*Improving Access to Services for Persons with Limited English Proficiency*), signed by the President of the United States in 2000, can, in fact, be seen as a landmark in the context of explicit translation policy. This executive order, which, like all executive orders, has the full force of the law behind it, "requires Federal agencies to examine the services they provide,

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<sup>16</sup> <http://www2.ed.gov/about/overview/fed/role.html> (accessed 10 January 2015).

<sup>17</sup> I have included two tables in the Appendix (Table 1 and 2) that summarize the major translation policy achievements in the U.S. at the federal and at the California level. Although they are all important, due to space constraints, I will only refer specifically to translation policies that are considered landmarks in the development of community translation practices in the contexts under study.



identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them” (2000:50121).

Some concerns that were raised following the issuance of Executive Order 13166 were subsequently clarified in the *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*. This general policy guidance, issued by the U.S. Department of Justice (DOJ)<sup>18</sup> in 2002, was designed to assist recipients of federal funding (generally state or local-level agencies or institutions) in fulfilling their responsibility to provide meaningful access to LEP persons under existing law and to help decide which documents need to be translated:

The decision as to what program related documents should be translated into languages other than English is a difficult one. While documents generated by a recipient may be helpful in understanding a program or activity, not all are critical or vital to ensuring meaningful access by beneficiaries generally and LEP persons specifically (*Guidance to Federal Financial Assistance* 2002: 41456).

Although recipients of federal funding are encouraged to develop their own guidelines and plans based on the needs of their specific programs and activities, these guidelines have to be “consistent with the compliance standards and framework detailed in DOJ Policy Guidance”<sup>19</sup> (*Guidance to Federal Financial Assistance* 2002:41455), which provides “a uniform framework” that recipients of federal financial assistance “may use to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient” (*Guidance to Federal Financial Assistance* 2002: 41457).

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<sup>18</sup> Executive Order 13166 assigns the Department of Justice with the responsibility of providing LEP Guidance to other Federal agencies and ensuring consistency within each agency-specific guidance.

<sup>19</sup> Given the centrality of the DOJ Policy Guidance and its relevance to all domains, domain-specific guidelines issued by other federal departments or agencies are not included in the Appendix at the federal level, as they are extensions of the guidance. However, I invite the reader to consult them here: [http://www.lep.gov/guidance/fed\\_plan\\_index.html](http://www.lep.gov/guidance/fed_plan_index.html) (accessed 10 January 2015).

The more recent *Common Language Access Questions, Technical Assistance and Guidance for Federally Conducted and Federally Assisted Programs* (2011) specifies which documents should be translated:

Federal agencies may need to identify and translate vital documents to ensure LEP individuals have meaningful access to important written information. Vital written documents include, but are not limited to, consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials, losses, or decreases in benefits or services; notice of disciplinary action; signs; and notices advising LEP individuals of free language assistance services (*Common Language Access Questions* 2011:8).

Moreover, the *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs* (also published in 2011) shows how the development and the implementation of these translation policies is carefully monitored at the federal level. In fact, federal and federally-assisted agencies or organizations will have their federal funding withdrawn if they do not comply with federal obligations to LEP individuals. The DOJ, and in particular the Federal Coordination and Compliance Section (FCCS) of the Civil Rights Division of the DOJ, ensures the consistent enforcement of civil rights statutes and Executive Orders that prohibit discrimination in federally conducted and assisted programs and activities. In order to do so, the FCCS carries out compliance reviews and investigations into allegations of national origin discrimination.<sup>20</sup>

It is important to highlight that these policy instruments account for the role of translation in the three facets of language planning outlined beforehand. In terms of corpus planning, most of these documents insist on the need for common written glossaries and terminologies. For instance, the DOJ Policy Guidance emphasizes the fact that “consistency in the words and phrases used to translate terms of art, legal, or other technical concepts helps avoid confusion by LEP individuals and may reduce costs” and that “Creating or using already-created glossaries of commonly used terms may be useful for LEP persons and translators *and cost effective for the recipient*” (*Guidance to Federal Financial Assistance* 2002:41464, emphasis added). As stated before, this

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<sup>20</sup> For more information on its enforcement activities, which falls outside the scope of this article, please consult the following report [http://www.justice.gov/crt/about/cor/4yr\\_report.pdf](http://www.justice.gov/crt/about/cor/4yr_report.pdf) (accessed 12 January 2014).

terminological work contributes to the spread of U.S. Spanish but also to status planning, that is, to the elevation of its status by extending its use beyond the public sphere. It is also worth emphasizing that this positive view of translation-related activities (albeit from a cost perspective) contrasts greatly with common discourses, according to which, more often than not, the provision of translation services and related activities is perceived first and foremost as a financial burden (see González Núñez 2014:317-330; Grin 2010).

With respect to translation policies as they relate to acquisition planning (as explained above, I will focus here on aspects covered by what Díaz Fouces denominates “control of execution”), questions arise as to what extent the existence of these translation policies and their enforcement pave the way for the professional regulation of the actors responsible for translating those “vital” documents as well as their translation practices. In this sense, the abovementioned DOJ Policy Guidance acknowledges that “Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the recipient” (2002:41461). Additionally, the guidance includes a specific section on what is designated as “the competence of translators”: “As with oral interpreters, translators of written documents should be competent” (2002:41464). It then specifies that “where legal or other vital documents are being translated, competence can often be achieved by use of certified<sup>21</sup> translators” (ibid.). It also adds that:

Competence can often be ensured by having a second, independent translator ‘check’ the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent translator could translate it back into English to check that the appropriate meaning has been conveyed (ibid.).

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<sup>21</sup> Certification (or what constitutes a “qualified” or a “trained” translator mentioned in the lines that follow) is a broad topic that could certainly be the subject of a completely separate article. Due to space constraints, in this article I will limit myself to presenting a general overview of the aspects pertaining to professional regulation. In terms of certification in particular, it is very important to emphasize the point that the Federal Coordination and Compliance Section alerts us to the fact that not all certifications are the same and outlines what constitutes adequate certification in this document concerning area of expertise assessed (legal, medical, etc.), direction of translation permitted, continuous education, etc. The details are outlined in this document: <http://www.lep.gov/resources/TRUST%20ME%20IM%20CERTIFIED%20%203-19-14%20%20508.pdf> (accessed 10 January 2015).

Likewise, the *Common Language Access Questions* highlights that “A translator must be qualified and trained”<sup>22</sup> (2011:8), and sets forth a quality control process that is very similar to that mentioned above, while adding “community input and the use of audits” (8) as additional quality control mechanisms. This document also underscores the need to develop specific language assessment protocols to ensure that bilingual employees serving as translators or interpreters are appropriately qualified, given that “[w]ithout regular assessment and training, bilingual staff may not be able to provide the language access services necessary to ensure LEP individuals have meaningful access to your agency’s program” (2011:11). Lastly, it warns against the use of machine or automatic translations, even if a disclaimer is then provided: “If an agency decides to use software-assisted translation, it is important to have the translation reviewed by a qualified language professional before posting it to the website to ensure that the translation correctly communicates the message” (2011:13).

Finally, the *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs* echoes the *Common Language Access Questions* in insisting on the use of qualified and trained translators (2011:5), and also cautions that if bilingual staff serve as translators, they need to be qualified to do so. The *Commonly Asked Questions and Answers Regarding Limited English Proficient Individuals* page of the LEP.gov site<sup>23</sup> also stresses this point. For example, to Question 11, “What is the difference between a bilingual staff person and an interpreter or translator?”, the answer provided is:

As valuable as bilingualism and ability to conduct monolingual communication in a language other than English can be, interpretation and translation require additional specific skills in addition to being fully fluent in two or more languages. (...) Professional interpreters and translators are subject to specific codes of conduct and should be well-trained in the skills, ethics, and subject-

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<sup>22</sup> Although these terms are not defined in this document, for languages for which certification exists, this is generally a synonym of “certified”, a term that is used in the DOJ Policy Guidance, as I have just mentioned. However, there are languages for which certification is not a possibility and for which education and/or training, other translation examinations (when they exist), and/or years of experience may be considered as valid credentials that are equivalents to certification. More information about this complex topic can be found in the DOJ Policy Guidance that this document derives from, as well as other resources on this topic. Please see the DOJ Tips and Tools document: Chapter 1B ([http://www.lep.gov/guidance/tips\\_and\\_tools-9-21-04.htm](http://www.lep.gov/guidance/tips_and_tools-9-21-04.htm), accessed on 10 January 2015) as well as the Interpretation and Translation page on [www.lep.gov](http://www.lep.gov) ([http://www.lep.gov/interp\\_translation/trans\\_interpret.html](http://www.lep.gov/interp_translation/trans_interpret.html), accessed on 10 January 2015).

<sup>23</sup> <http://www.lep.gov/faqs/faqs.html#OneQ11> (accessed 10 January 2015).

matter language. Those utilizing the services of interpreters and translators should request information about certification, assessments taken, qualifications, experience, and training.

This emphasis on translators' certifications and/or qualifications and training as well as the importance of following quality assurance protocols in the translation process fits not only within the category of acquisition planning, as discussed earlier, but also has positive repercussions on the status of community languages.

In summary, at the federal level, the general panorama is promising; not only do overt and multifaceted<sup>24</sup> translation policies pertaining to community languages exist, but also the policies contemplate consistent monitoring of their implementation (including penalties for non-compliance), which leads to increased regulation and professionalization of community translation practices (at least on paper). This, in turn, is indicative of a comprehensive language planning strategy. That being said, it would be interesting to see in a follow-up study whether the discourse contained in translation policies regarding translation practices and quality-control processes is in fact consistently applied and monitored.

### *The state level: California*

As early as 1849, the first California constitution stipulated that "All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish" (Article XI, Section 21); nonetheless, 29 years later, in 1878, the second California constitution not only eliminated the 1849 guarantee for Spanish-language publications, but also limited all official proceedings to English (a restriction that remained in effect until 1966). Interestingly enough, this made California one of the nation's first "English only" states.

In general, the chronological list of policy instruments in California provided in the Appendix (Table 2) shows more grey areas, controversies, and loopholes on the subject of the existence and enforcement of translation policies than the trends observed at the federal level. For instance, in 1973, the *Dymally-Alatorre Bilingual Services Act* was enacted to ensure that individuals who

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<sup>24</sup> In the sense that they cover aspects related to corpus and status planning, as well as the professionalization of translators.

could not speak or write English were not prevented from using public services because of language barriers.<sup>25</sup> Specifically, the Act provided state agencies with guidelines for translating written materials into other languages: Materials explaining services must be translated into any language meeting the “5 percent or more” standard,<sup>26</sup> a standard that is also used to determine those non-English languages for which, at minimum, state agencies must provide bilingual services. Furthermore, the Act stipulated that notice of the availability of translated materials explaining services must be provided in English and in the languages of the translated materials. However, the Act did not assign responsibility for its enforcement, nor did it impose penalties for noncompliance (California State Auditor 1999:8). It also provided no additional funding to state or local agencies to execute its provisions (ibid.). This may explain why, when an audit was performed in 1999 by the Bureau of State Audits at the request of the Joint Legislative Audit Committee, the following unsurprising conclusion was reached:

(...) some state agencies have not fully complied with the act; (...). Specifically, we noted that 8 of the 10 state agencies<sup>27</sup> we audited have not established procedures to periodically assess their need to provide bilingual services to their clients. Further, only 1 of the 10 agencies translates materials explaining services into languages spoken by a substantial number of the individuals it serves. (...) Finally, although local agencies are exercising their discretion allowed under the act, the bilingual services they provide may not be meeting their clients’ language needs (1999: Letter of Introduction).

The report later explains that, in fact, most of the state agencies audited were not even aware of their obligation to translate materials explaining services into languages spoken by a substantial number of the people they serve. Only two of the ten agencies audited were aware of this requirement. The State Personnel Board,<sup>28</sup> which was responsible at the time of the report for overseeing the status of bilingual services that state agencies provide, is accused in the report of

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<sup>25</sup> Please note that the provisions of the *Dymally-Alatorre Bilingual Services Act* “are not applicable to school districts, county boards of education, or the office of a county superintendent of schools” (§7298).

<sup>26</sup> For state agencies, the Act defines a “substantial number of non-English-speaking people” as consisting of 5 percent or more of the people served by any local office or facility of a state agency.

<sup>27</sup> The state departments audited were the Department of Motor Vehicles, Department of Forestry and Fire Protection, California Highway Patrol, Department of Health Services, Department of Social Services, Unemployment Insurance Appeals Board, Department of Aging, Department of Toxic Substances Control, California Department of Corrections, and the Department of Housing and Community Development.

<sup>28</sup> Currently, it is the California Department of Human Resources (CalHR), created in 2012, that is in charge of this task.

not being diligent enough to fulfill its responsibilities under the Act (ibid.). The results of a more recent audit (California State Auditor 2010) were not any more encouraging:

Of the 10 state agencies we reviewed, none had adequate procedures in place to determine whether they were translating certain written materials as required and most had not developed plans to address their staffing and written materials deficiencies.

In other words, translation policies exist, but state agencies are not even aware of them, and, moreover, there are no consequences for this behavior; the contrast with policies at the federal level in term of management and planning is noticeable from the outset.

However, following the *Dymally-Alatorre Bilingual Services Act* of 1973—which was much less detailed concerning the provision of translation services than the general framework detailed in DOJ Policy Guidance<sup>29</sup>—some progress was indeed made, particularly in the legal and medical domains. For instance, in 1974, Proposition 7 amended the Constitution of California to require an interpreter, paid for by the state, for criminal defendants who could not speak English; however, translation was not specifically addressed in the proposition. A year later, in 1975, the *Knox-Keene Health Care Service Plan Act*, which established the right to assistance in the enrollee’s primary language, was enacted (and translation specifically addressed, as we shall see later), and in 1983, the *Kopp Act* was passed, establishing that hospitals must “Review standardized admission forms to determine which should be translated” (*CA Health & Safety Code* § 1259, *Kopp Act* 1983). Although different degrees of compliance have been reported (Ma 2012) due to the lack of proper enforcement,<sup>30</sup> “health departments generally seem to have more extensive bilingual resources and services and translated materials (especially in languages such as Spanish) than do other departments” (California State Auditor 1999:2).

This progress at the policy level (though modest in terms of implementation) contrasts, for instance, with the fact that, in 1986, Proposition 63 reaffirmed explicitly that English is the only

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<sup>29</sup> Reason that explains why more domain-specific legislation and policy documents have been included in this section devoted to state policies, as these documents introduce elements missing from the *Dymally-Alatorre Bilingual Services Act*.

<sup>30</sup> According to Ma (ibid.), “A monetary fine should be attached to the Kopp Act. The current penalty of halting the licensure process or the revocation of a hospital’s license is unrealistic.”

official language of California, as appears in the California State Constitution, Article III, Section 6 (unlike at the federal level, where there is no officially recognized language). This proposition can be seen as part of the English-only movement, which is based on the idea that English can be a unifying force for a diverse American society. More propositions followed in the same vein. For instance, in 1998, Proposition 227 (the *English Language in Public Schools Initiative*) was passed, according to which all public school instruction in California must be conducted in English. The ban on bilingual education that this proposition entailed has been a controversial issue in California that has attracted as many critics as it has supporters. Resistance to the new law has been intense in many schools and districts, and its interpretation and implementation have varied from school to school, sometimes coming close to subverting the intent of the law. However, in spite of the best efforts of opponents of this ban, it seems that this proposition has indeed negatively affected bilingual education in the state (see Rossell 2003; Carter 2014).<sup>31</sup>

I mention these propositions because, paradoxically, the ban on bilingual education indirectly brought about other Californian state measures that called for the implementation of translation policies. For example, in 2005, Section 48985 of the *Education Code* addressed parental notification in languages other than English and required the following:

If 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English (...), all notices, reports, statements, or records sent to the parent or guardian of any such pupil by the school or school district shall, in addition to being written in English, be written [so translated] in the primary language, and may be responded to either in English or the primary language.

Interestingly, a report released by the California State Auditor in 2006 regarding compliance with this translation requirement in public schools found a high compliance rate of 91 percent for the required Spanish translations of notices. While this can be seen as an important step for the

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<sup>31</sup> It is interesting to note, however, that while Proposition 227 terminates bilingual education as it was known prior to June 1998 in California, according to federal law (the *Bilingual Education Act* 1994), bilingual education must be provided if there are at least 20 children of the same primary language, and if a public school violates this requirement, it loses federal funding.



Hispanic community in California, compliance rates for other languages fulfilling the 15-per-cent-or-more standard are much lower.<sup>32</sup>

To summarize, in California, the degree of implementation of different translation policies seems to depend not only on the language involved (Spanish being by far the most privileged), but also on different domains of activity (health care being the most advanced in this respect). In addition, penalties for noncompliance with translation policies do not exist, unlike at the federal level. At this juncture, the question that needs to be raised in order to recapture one of our initial research questions is to what extent this variable degree of compliance in terms of translation policies affects, at the state level, the regulation, and, more specifically, the professionalization of community translation practices, especially when compared to federal policies on this subject.

From the outset, we find more grey areas in most of the legislation and policy documents examined at the state level than in those at the federal level. For instance, regarding translators' professional regulation, the *Dymally-Alatorre Bilingual Services Act* does not insist on trained translators and interpreters over bilingual employees. In fact, all "qualified staff" (defined in section 7296 of the Act) are presented on an equal footing with respect to their abilities to meet the needs of their non-English speaking population. Nor does the Act specify the difference between translation and interpretation (the word "translator" is never used specifically in the Act; only "interpreter" or the action "to translate" are mentioned). Moreover, although the Act does not allude to this difference *per se*, the web page of the Bilingual Service Program of the California Department of Human Resources (which currently assumes the former role of the State Personnel Board in terms of LEP individuals' language access) states that "Interpreters may also be responsible for translating written documents, *often of a legal nature*, from English into the target language and/or from the target language to English" (California Department of Human Resources 27 March 2014, emphasis added).

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<sup>32</sup> For example, compliance rates for translations into Mandarin were 54 percent.

With respect to Californian courts, there is neither state certification for legal translators nor any well-defined quality control process governing translation services. However, it is important to note that some steps are being taken to remedy this situation. For instance, in 2014, the *Strategic Plan for Language Access in the California Courts* clearly acknowledged that “Certified and registered [state] court interpreters are not tested on their written skills in the non-English language”<sup>33</sup> (Joint Working Group 2014:62) and that “The language skills required for qualified translation are unique, different from those required for interpretation and much more advanced than those required of bilingual staff” (Joint Working Group 2014:61), hence the following recommendation:

The Judicial Council will create a Translation Advisory Committee to develop and formalize a translation protocol for Judicial Council translations of forms, written materials, and audiovisual tools (...). The committee’s responsibilities will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of the translation of materials. The qualification of translators should include a requirement to have a court or legal specialization and be accredited by the American Translators Association (ATA), or to have been determined qualified to provide the translations based on experience, education, and references (Joint Working Group 2014:55).

In the education domain (which, as I mentioned earlier, is not covered under the *Dymally-Alatorre Bilingual Services Act*), Education Code 48985 does not make any mention of the actors, or the level of professionalization required from the people responsible for translating the parental notification and other documents into languages other than English. However, in 2006, the California Department of Education published *Quality Indicators for Translation and Interpretation in Kindergarten Through Grade Twelve Educational Setting*. The authors of this guidance acknowledge that “California has no comprehensive written policy or standard procedure for recruiting, assessing, utilizing, and compensating qualified translators and interpreters in kindergarten through grade twelve educational settings” (2006:1), and then conclude that “Practices throughout California’s schools and districts are inconsistent and in some cases inadequate to serve multilingual students and their families” (ibid.). The purpose of

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<sup>33</sup> In contrast with the Federal Court Interpreter Certification Examination, in which candidates must pass the written exam in order to qualify for the oral component of the examination.

this guidance was therefore “to improve the quality of translations of parental notifications and other documents into languages other than English and to ensure more appropriate and effective interpreting practices” (2006:1). Besides explaining the difference between translation and interpretation and insisting on the fact that “[t]ranslation and interpretation are special skill sets that are acquired over time, often requiring several months or years of specialized training” (2006:13), the guidance sets forth some guidelines for the recruitment of translators and provides “quality indicators for assessing the work of those who serve as translators and interpreters for parents and guardians of English learners” (2006:6-9).

The last domain of this broad review is health care, where, in fact, we find the highest level of professional regulation concerning translation practices. The *Knox-Keene Health Care Service Plan Act* emphasizes how important it is to have “[s]tandards to ensure the quality and accuracy of the written translation” and that a translated document meets the same standards required for the English language version of the document” [1367.04 (2)]. The Act also states that “[a] health care service plan shall use a trained and qualified<sup>34</sup> translator for all written translations of marketing and advertising materials relating to health care service plan products, and for all of the documents specified in subdivision (a)”<sup>35</sup>[1367.041 (b)]. It further states that details about translating vital documents that require translation should be found by consulting the following “publications and standards issued by federal agencies”.<sup>36</sup> As a final point, the remaining health care legislation mentioned in the Appendix (the Medi-Cal Managed Care Policy Letters 99-03 and 99-04, and the requirements imposed by the Managed Risk Medical Insurance Board) also

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<sup>34</sup> The requirements of what is considered acceptable in terms of translator qualifications, including training, are not specified here. This in itself can be problematic, as it is well known that many misconceptions exist in this respect, especially in a country where university degrees in Translation and Interpreting are uncommon.

<sup>35</sup> The documents specified are welcome letters or notices of initial coverage, applications for enrollment and any information pertinent to eligibility or participation, notices advising LEP persons of the availability of no-cost translation and interpretation services, notices pertaining to the right of an enrollee to file a grievance and the associated instructions, and summary of benefits and coverage.

<sup>36</sup> In particular, the Act mentions the report *Culturally and Linguistically Appropriate Services in Health Care*, issued by the United States Department of Health and Human Services’ Office of Minority Health in December in 2000 (<http://minorityhealth.hhs.gov/assets/pdf/checked/finalreport.pdf>, accessed 12 January 2015), and the Policy Guidance of the Department of Health and Human Services’ Office of Civil Rights, issued in 2000 (<http://www.gpo.gov/fdsys/pkg/FR-2000-08-30/pdf/00-22140.pdf>, accessed 12 January 2015).

outlines a translation process flowchart that consists of well-delineated steps and the involvement of qualified translators,<sup>37</sup> translation editors and health professionals.<sup>38</sup>

In short, a varied degree of compliance with translation policies is accompanied by a varied degree of definition and regulation of the community translation profession (in terms of practices and actors), which fluctuates not only depending on the language involved (Spanish being the most privileged), but also the domain (health care being the most advanced in this respect).

With regards to the role of translation in corpus planning at the state level, though there is much less emphasis on corpus planning development in the state-level policy documents analyzed than at the federal level, it is not entirely nonexistent. State agencies and departments are trying to create common terminologies to be used in state communications, but once again, their task is almost exclusively limited to Spanish, even when other languages that meet the 5-or-more-per-cent standard (or the 15-per-cent-or-more standard in the case of education) are present. Some examples of common terminologies are the English–Spanish Education Language Glossary included in the *Quality Indicators* report mentioned earlier (2006:6-9) and the Spanish-English glossary provided by the California Judicial Branch.<sup>39</sup> As I have already mentioned, all these initiatives can have a clear impact on improving the status of the language involved, in this case Spanish, by fostering its use in formal contexts.

The last aspect that I would like to briefly discuss in this section, which applies at both the federal and state levels, is translator education, a dimension within the broader topic of community translators' professionalization that is missing or, in the best case, only mentioned in passing in the policies examined. One could argue that a pool of well-trained translators is

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<sup>37</sup> Defined, although in general terms, as an individual with “formal education in the target language; ability to read and understand the source language; knowledge and experience with culture(s) of the intended audience; health and managed care background is also recommended” (Enclosure III of the Medi-Cal Managed Care Policy Letters 99-04: <http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/PL1999/MMCDPL99004.pdf> (accessed 12 January 2015).

<sup>38</sup> The process is described in enclosures I to II of the Medi-Cal Managed Care Policy Letters 99-04: <http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/PL1999/MMCDPL99004.pdf> (accessed 12 January 2015). It is also described in the Managed Risk Medical Insurance Board/Healthy Families plan Vision Plan Model Contract: [http://www.mrmib.ca.gov/MRMIB/Agenda\\_Minutes\\_102407/Cultural\\_Linguistics/Vision\\_C\\_L\\_2007\\_Survey/Eye\\_Med/Attachments/Translation%20Process.pdf](http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_102407/Cultural_Linguistics/Vision_C_L_2007_Survey/Eye_Med/Attachments/Translation%20Process.pdf) (accessed 12 January 2015).

<sup>39</sup> <http://www.courts.ca.gov/selfhelp-glossary.htm?rdeLocaleAttr=es#top> (accessed 15 January 2015).

needed to guarantee—and, in a way, advocate for—a successful and comprehensive implementation of translation policies, which, in turn, is indicative of well-developed language planning. In order to train professionals in the community field, however, it would likely be essential that higher education institutions become more willing to invest in a field that has not traditionally been highly regarded, and in the U.S. has often been left to vocational community colleges, which are primarily interested in teaching the know-how (skills)—what we could refer to as “training”<sup>40</sup>—and not so much the know-what (knowledge) and the attitudes required—what we could refer to as “education”. In this sense, the educational initiative currently being implemented at the Middlebury Institute of International Studies at Monterey, the Spanish Community Interpreting Specialization, is considered a first step in that direction, as it illustrates how community translation can be incorporated into a general university degree (graduate in this case) in Translation and Interpretation.<sup>41</sup>

The inclusion of a translation component specifically tailored to community settings can avoid the risk of producing professionals that are sometimes asked to do written translation as community interpreters,<sup>42</sup> but may not have the adequate and specific education to do so, which can compromise the quality of the services provided, affect the status of the community translation profession as a whole, and, ultimately, impact the end users that these professionals are serving. More generally speaking, the existence of graduate programs like the one mentioned

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<sup>40</sup> “Training” is also provided by the bodies and organizations that hire translators, and, generally speaking, this is what this term refers to in the policies examined, rather than training provided by educational institutions.

<sup>41</sup> Despite the emphasis on interpreting that is apparent in the name of the specialization, almost half of the modules in the community curriculum are translation courses (not to mention the terminology courses) that are specifically tailored to respond to the demands of translating in community settings. Moreover, contrary to other comparable curricular initiatives in the U.S. at the graduate level (which fall outside the scope of this paper), translation within this program is not only seen as a means to acquire certain core competencies in interpreter training, but as an end in itself. As a result, there are three translation courses specifically adapted to community settings which cover text-types mentioned in the translation policies analyzed in the previous sections of this article. For example, there is a Social Services and Education translation course that covers texts specific to educational settings, such as reports, treatment plans, brochures, letters to parents, notices, special education documents, etc.; a Written and Sight Translation of Medical Texts course that covers translations of instructions (prescriptions, pre-op, discharge forms, etc.), simple consent forms, reports, etc.; and a Translation of Legal Texts course, that covers the translation of court forms, reports (police, probation, forensic), instructions, affidavits, complaints, personal documents, etc. (<http://www.miiis.edu/academics/programs/translationinterpretation/curriculum/comm-interpreting> (accessed 10 January 2015)).

<sup>42</sup> How often community interpreters are asked to translate in the U.S. is an important question that I have included in a survey in progress, the results of which I hope to report in future publications, but for the moment, the answers to the survey received show that community interpreters are asked to translate more than one may think.

above serves to signal the importance of having highly educated professionals in the community field, which ideally will encourage national authorities and society as a whole to accept their need and support their education at a higher level. This, in turn, should foster more respect towards the intended recipients (i.e. minorities/minoritized groups) of these interlinguistic transactions and, in the long term, should empower them to participate in all of the democratic processes that take place in multilingual societies.

As the subtitle of this issue (“Translation as a tool for inclusion or exclusion in a multicultural society”) indicates, translation can be a central instrument for analyzing the inclusion or exclusion practices of communities in multicultural societies, and this may be particularly important in societies like the U.S., where the demographic weight of certain minoritized groups has the potential to be translated into political influence.

#### **4. Conclusion**

The picture of U.S. translation policies that emerges has complex shades. Although almost all of the policies reviewed tend to explicitly address translation, they have different degrees of compliance, depending not only on the level of government, but also on the domain and the languages involved. This variation translates into different modalities and different degrees of regulation in terms of best practices and quality control as well as professionalization of community translators. This article has indicated areas where there is room for improvement, but also mentions steps that are being taken to improve these weaker areas. At a more abstract level, I have argued that the existence or nonexistence of translation policies, their nature (explicit or implicit), their degree of compliance, the different facets or dimensions of language planning that they address (corpus, status and acquisition planning), as well as the type of community translation practices that they may lead to, are vectors to assess the degree of comprehensiveness of language planning in a given context, and, by extension, how successfully a given society deals with linguistic diversity and alterity on the whole. In the case of the U.S., one can conclude that the panorama is a positive one and shows signs of a healthy degree of comprehensiveness in terms of language planning, at least at the policy level. However, more in-depth domain-specific studies, more comparative studies with other countries, as well as a follow-up study to see how

that which is contained in policy instruments concerning community translation (its actors and praxis) is implemented, would certainly help us to refine the picture presented in this article.

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## Appendix: Translation policies in the U. S.

Table 1. Major U.S. Federal Policies

Year	Name	Overview	Source
1964	Title VI of the Civil Rights Act of 1964	<p>“It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.” [quote taken from page at link to the right]</p> <p>“If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action.” [see link]</p>	<a href="http://www.justice.gov/crt/about/cor/coord/titlevi.php">http://www.justice.gov/crt/about/cor/coord/titlevi.php</a> (accessed 18 June 2014).
1974	Lau v. Nichols Supreme Court Case	Establishes the idea that language-based discrimination is effectively a proxy for national origin discrimination	<a href="http://www2.ed.gov/about/offices/list/ocr/ell/lau.html">http://www2.ed.gov/about/offices/list/ocr/ell/lau.html</a> (accessed 18 June 2014).
2000	Executive Order 13166	“The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them.”	<a href="http://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf">http://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf</a> (accessed 18 June 2014). Federal Register, Vol. 65, No. 159.
2002	<i>Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons</i>	This clarifies some issues that were raised following Executive Order 13166. Page 41456 of <i>Guidance to Federal Financial Assistance</i> states: “The decision as to what program related documents should be translated into languages other than English is a difficult one. While documents generated by a recipient may be helpful in understanding a program or activity, not all are critical or vital to ensuring meaningful access by beneficiaries generally and LEP persons specifically.”	<a href="http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf">http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf</a> (accessed 18 June 2014) Federal Register / Vol. 67, No. 117 / Tuesday, June 18, 2002 / Notices

2011	<i>Common Language Access Questions, Technical Assistance and Guidance for Federally Conducted and Federally Assisted Programs</i>	<i>Language Access CAQ TA Guidance</i> outlines which documents should be translated (8) “ <b>Federal agencies may need to identify and translate vital documents to ensure LEP individuals have meaningful access to important written information.</b> Vital written documents include, but are not limited to consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials, losses, or decreases in benefits or services; notice of disciplinary action; signs; and notices advising LEP individuals of free language assistance services.”) [emphasis added]	<a href="http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf">http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf</a> (accessed 18 June 2014).
2011	<i>Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs</i>		<a href="http://www.lep.gov/resources/2011_Language_Assessment_and_Planning_Tool.pdf">http://www.lep.gov/resources/2011_Language_Assessment_and_Planning_Tool.pdf</a> (accessed 18 June 2014).

Table 2. Major California translation policies

Year	Name	Overview (quotes taken from the link to the right)	Source
1849	California's First constitution	Article XI, Sec. 21: "All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish."	<a href="https://openlibrary.org/books/OL5954907M/The_original_constitution_of_the_state_of_California_1849">https://openlibrary.org/books/OL5954907M/The_original_constitution_of_the_state_of_California_1849</a> (accessed 7 January 2015).
1878	California's Second Constitution	"In this climate the delegates not only eliminated the 1849 guarantee for Spanish-language publications, but also limited all official proceedings to English (a restriction that remained in effect until 1966), making California one of the nation's first 'English only' states." [quote taken from page at link to the right]	<a href="http://www.languagepolicy.net/archives/1879con.htm">http://www.languagepolicy.net/archives/1879con.htm</a> (accessed 18 June 2014).
1973	<i>Dymally-Alatorre Bilingual Services Act</i> ( <i>California Codes. Government Code</i> §§7290-7299.8)	Section 7295. Any materials explaining services available to the public shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency.	<a href="http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&amp;group=07001-08000&amp;file=7290-7299.8">http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&amp;group=07001-08000&amp;file=7290-7299.8</a> *This version includes the amendments made in 2007. (accessed 18 June 2014).
1974	DECLARATION OF RIGHTS California Proposition 7	Amended the Constitution of California to <b>require</b> an interpreter (at the cost of the state) for criminal defendants who cannot speak English	<a href="http://repository.uchastings.edu/cballot_props/790/">http://repository.uchastings.edu/cballot_props/790/</a> (accessed 18 June 2014).

1975	<i>Knox-Keene Health Care Service Plan Act (California Health and Safety Code §§1340-1399.818)</i>	§ 1367.04. Access to language assistance; regulations and standards; assessment of linguistic needs of enrollees;  The complete section cannot be included here due to space constraints, but it includes requirements for the translation of documents, specification of vital documents produced by the plan that are required to be translated, standards to ensure the quality and accuracy of the written translations.	<a href="http://capg.org/modules/showdocument.aspx?documentid=1659">http://capg.org/modules/showdocument.aspx?documentid=1659</a> (accessed 8 January 2015). *This version includes amendments made until Jan. 14
1983	<i>Kopp Act [California Health &amp; Safety Code §1259 (7)]</i>	Hospitals Must: “Review all standardized written forms, waivers, documents, and informational materials available to patients upon admission to determine which to translate into languages other than English.”	<a href="http://law.onecle.com/california/health/1259.html">http://law.onecle.com/california/health/1259.html</a> (accessed 18 June 2014).
1986	California Proposition 63, California State Constitution, ARTICLE III, SECTION 6	English is the official language of California	<a href="http://www.languagepolicy.net/archives/prop63.htm">http://www.languagepolicy.net/archives/prop63.htm</a> (accessed 18 June 2014).
1998	California Proposition 227 <i>English Language in Public Schools Initiative</i>	All public school instruction in California must be in English	<a href="http://repository.uchastings.edu/cballot_props/1151/">http://repository.uchastings.edu/cballot_props/1151/</a> (accessed 18 June 2014).
1998	<i>Healthy Family Plan Contract</i> , Exhibit A, Item III.C.2.a (2010-11 Amendment)	Cultural and linguistic requirements imposed by the Managed Risk Medical Insurance Board on health care service plans that contract to provide services in the Healthy Families Program. These plans are required to “translate written informing materials into Spanish and any language representing the preferred mode of communication for the	<a href="http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_121609/12010_11_HFP_Vision_Model_Exhibit_A_12_16_09.pdf">http://www.mrmib.ca.gov/MRMIB/Agenda_Minutes_121609/12010_11_HFP_Vision_Model_Exhibit_A_12_16_09.pdf</a>



		lesser of 5% of the contractor's enrollment or 3,000 subscribers of the contractor's enrollment in the program" (Item III.C.2.b)	
1999	Medi-Cal Managed Care Policy Letters (MMCD PL), Cultural and Linguistic Requirements (99-03) and Translation of Written Informing Materials (99-04)	Cultural and linguistic requirements imposed by the Department of Health Services on health care service plans that contract to provide Medi-Cal managed care services. According to these policy letters, it is required to provide "quality translation of written informing materials to member with limited English proficiency and speak one of the languages which meet the threshold or concentration standards" (MMCD PL 99-04: 1) that is "members whose primary language is not English and who meet a numeric threshold of 3,000 LEP mandatory Medi-Cal eligibles in service area or 1,000 in a single zip code or 1,500 in two contiguous zip codes" (MMCD PL 99-03: 3)	<p><a href="http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLs andPolicyLetters/PL1999/MMCDPL99004.pdf">http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLs andPolicyLetters/PL1999/MMCDPL99004.pdf</a> (accessed 10 January 2015).</p> <p><a href="http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLs andPolicyLetters/PL1999/MMCDPL99003.pdf">http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLs andPolicyLetters/PL1999/MMCDPL99003.pdf</a> (accessed 10 January 2015).</p>
2005	<i>Parental notification in languages other than English</i> (Education Code §§ 48985)	"If 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English, as determined from the census data submitted to the department pursuant to Section 52164 in the preceding year, <b>all notices, reports, statements, or records sent to the parent or guardian of any such pupil by the school or school district shall, in addition to being written in English, be written in the primary language</b> , and may be responded to either in English or the primary language." [emphasis added]	<a href="http://www.cde.ca.gov/ls/pf/cm/edcode48985.asp">http://www.cde.ca.gov/ls/pf/cm/edcode48985.asp</a> (accessed 18 June 2014).

2009	Title 16 of the <i>California Code of Regulations</i> (Division 17 Article 2 §§1707.5 (b)	“By October 2011, and updated as necessary, the board shall publish on its Web site translation of the directions for use listed in subdivision (a)(4) into at least five languages other than English to facilitate the use thereof by California pharmacies”.	<a href="http://www.rxtran.com/pharmacy-translation-regulations/pharmacy-translation-regulations-california.html">http://www.rxtran.com/pharmacy-translation-regulations/pharmacy-translation-regulations-california.html</a> (accessed 18 June 2014).  <a href="http://pharmacy.ca.gov/laws_regs/1707_5_adopted.pdf">http://pharmacy.ca.gov/laws_regs/1707_5_adopted.pdf</a> (accessed 18 June 2014).
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