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### Linguistic and cultural training for immigration attorneys representing undocumented Oaxacan immigrants in the United States.

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Linguistic and Cultural Training for  
Immigration Attorneys Representing Undocumented  
Oaxacan Immigrants in the United States

By

Alexis Faith Ecarma

Submitted in partial fulfillment of the requirements  
for Graduation *summa cum laude*  
and  
for Graduation with Honors from the Department of Liberal Studies

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### Abstract

The roles of second language acquisition and cultural competence in the training of attorneys have been explored by legal scholars and law professors. Some suggest that such training ought to be administered to law students as a component of their law school curricula. Others argue that, in an increasingly globalized legal field, “experiential learning” is essential for developing linguistically-proficient and culturally-competent lawyers. Despite the growing presence of undocumented Oaxacan immigrants in the U.S., scholars have yet to investigate the linguistic and cultural training of U.S. immigration attorneys who represent these immigrants in legal contexts. The following research fills this gap in the scholarship by addressing the following question: How can second language acquisition and cultural competence training help to equip U.S. immigration attorneys to adequately represent undocumented Oaxacan immigrants in legal contexts? Through this investigation, I inquire about linguistic and cultural knowledge that most heavily informs attorneys’ intercultural communication with undocumented Oaxacan migrants, as well as the social, political, and economic factors that have shaped Oaxacan society. I discuss the myriad ways in which language skills and cultural competence enable U.S. immigration attorneys to foster trust and good rapport in attorney-client relationships. Finally, I gather, analyze, and synthesize valuable insights from interviews with two experienced attorneys in Oaxaca in order to discover the ways in which linguistic and cultural training can help to equip U.S. immigration attorneys to adequately represent undocumented Oaxacan immigrants in legal contexts.

*Keywords:* immigration attorney, immigration law, Spanish acquisition, second language acquisition, linguistic training, cultural training, cultural competence, Oaxaca, Oaxacan immigrants

### Lay Summary

Proficiency in foreign languages and the ability to navigate cross-cultural situations are crucial elements to the work of immigration attorneys. However, it is not always clear how to equip immigration attorneys to use these specialized skills when representing clients in legal contexts. Should foreign languages be taught to law students in a classroom setting or should they spend a year in a foreign country, familiarizing themselves with the intricacies of the language through daily interaction with native speakers? Should immigration attorneys attend seminars or workshops to learn how to communicate effectively with those from other cultures or should they build networks with attorneys abroad, developing intercultural skills through interaction and collaboration? These questions become increasingly urgent as immigrants from Oaxaca, Mexico enter the U.S. at higher rates and are unable to find trained legal advocates who can speak their languages and understand their backgrounds, lifestyles, and values. This project attempts to demonstrate why foreign language abilities and cross-cultural skills allow immigration attorneys to better understand who their clients are and, as a result, advocate for them more effectively in legal contexts. By synthesizing existing scholarship with the insights and experiences of immigration attorneys in Oaxaca, immigration attorneys can be trained to bridge cultural gaps, overcome their own cultural biases, cultivate trust in their attorney-client relationships, and account for the nuanced realities immigrants face in their native countries and the complex dynamics that cause them to migrate.

## Table of Contents

Context.....	7
Effective Assistance of Counsel.....	7
Second Language Acquisition and its Role in Adequate Representation.....	9
Differences between Legal Systems and their Implications for Immigration Attorneys...11	
Cultural Diversity and its Effects on the U.S. Legal Field.....	11
Relevance to Immigration Attorneys.....	16
Cultural Biases and their Ramifications for Attorney-Client Relationships.....	17
Cultural Competence Training for Attorneys.....	18
Relevance to Undocumented Immigrants from Oaxaca.....	19
Research Scope.....	21
Oaxaca, Mexico.....	21
Attorneys.....	21
Immigration Attorneys.....	22
Undocumented Immigrants.....	22
Theoretical Framework.....	23
Positionality.....	23
Personal background.....	23
Acknowledgment of cultural biases.....	24
Application to research.....	25
Research Methodology.....	26
Analysis.....	27
First Interview.....	27

Second Interview.....36

Discussion.....44

Conclusion.....46

References.....48

Linguistic and Cultural Training for Immigration Attorneys Representing  
Undocumented Oaxacan Immigrants in the United States

Legal scholars and law professors have previously inquired about the roles of second language acquisition, defined by Gass and Selinker (1998) as “the learning of a nonnative language after the learning of the native language” (p. 6), and cultural competence, envisioned by Williams (2003) as a body of knowledge that challenges and changes the systems and theories developed in dominant values and knowledge and responds to the needs of marginalized populations made invisible by the dominant powers that control the “recognition of voice, expertise and status” (p. 274), in the training of attorneys. Some suggest that linguistic and cultural training ought to be administered to law students as a component of their education and its corresponding curricula (Curran, 1993; Falati, 2020; Glick, 2017; Huempfner, 2020; Limmer, 2013). Others argue that “experiential learning,” an integrated teaching pedagogy that incorporates experience and relationship-based learning into doctrinal, practical skills, and clinical courses that train students in the core competencies and soft skills necessary to think, write, and practice within and across contexts (Lamparello and McLean, 2015, p. 148), is essential for developing linguistically-proficient and culturally-competent lawyers in an increasingly globalized legal field (Blumberg, 2014; Lynch, 2015). Despite the increasing presence of undocumented Oaxacan immigrants in the U.S., scholars have yet to discuss the linguistic and cultural training necessary for U.S. immigration attorneys to adequately and competently represent them in legal contexts.

In order to fill this gap in the scholarship, this research investigates linguistic and cultural training for U.S. immigration attorneys representing undocumented Oaxacan immigrants in the U.S. Through this investigation, I explore the ways in which second language acquisition and

cultural competence training within the context of Oaxaca can help to equip U.S. immigration attorneys to adequately represent undocumented Oaxacan immigrants in legal contexts. I inquire about linguistic and cultural knowledge that most heavily informs attorneys' intercultural communication with undocumented Oaxacan migrants, as well as the social, political, and economic factors that have shaped the diverse landscape of Oaxacan society. I discuss the myriad ways in which language skills and cultural competence enable U.S. immigration attorneys to foster trust and good rapport in attorney-client relationships. Finally, I gather, analyze, and synthesize valuable insights from two experienced attorneys in Oaxaca in order to discover the ways in which linguistic and cultural training can help equip U.S. immigration attorneys to adequately represent undocumented Oaxacan immigrants in legal contexts.

### **Context**

#### **Effective Assistance of Counsel**

The general conception of “adequate representation” in the legal profession stems from the provisions of the Sixth Amendment of the U.S. Constitution: that an attorney will make a good faith effort to make a case in a zealous and enthusiastic manner (“Adequate Legal Representation Laws,” 2018, para. 1). As stated in *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970), “[I]f the right to counsel guaranteed by the Constitution is to serve its purpose, defendants cannot be left to the mercies of incompetent counsel . . .” One particularly pertinent implication of “effective assistance of counsel” has been elaborated as follows: by failing to provide adequate representation that is adequate to ensure a fair trial, or, more broadly, a just outcome, defense counsel can deprive a defendant of effective assistance (“Effective Assistance of Counsel,” n.d., para. 2). However, this constitutional right does not apply to the cases of undocumented immigrants seeking citizenship, permanent residence, or a permit or visa to reside



in the U.S. Without the entitlement of “effective assistance of counsel” or “adequate representation” in their proceedings, undocumented immigrants are obligated to find and hire their own attorneys (at their own expense), obtain legal resources through legal aid services or organizations, or represent themselves without the assistance of trained legal counsel.

With regard to effective assistance of counsel, Wong (2012) discusses the case of Annie Ling, who was sentenced to ten years in prison and five years on probation without the assistance of a Mandarin interpreter with which she could testify in her defense. Given her unique cultural background as a Malaysian woman, the Court had prevented her from explaining particular values informed by her culture that were interpreted by the trial judge as cruel intent. The judge reasoned that allowing Ling to testify through an interpreter would “make the trial ‘take a lot longer’ and would make the jury ‘impatient’” (pp. 431-432). Her motion for a new trial was swiftly denied and the failure to offer effective assistance of counsel by securing an interpreter was left unrectified. Such instances are common for immigrants like Ling who come from diverse linguistic and cultural backgrounds and are minimally proficient in English. Oaxacan immigrants are no exception as they are often forced to settle for immigration attorneys with minimal Spanish-language skills or cultural competence training when seeking legal assistance in matters pertaining to their immigration status. Much like the miscarriage of justice seen in Ling’s case, these immigrants are effectively barred from the adequate legal counsel guaranteed to U.S. citizens as a result of their linguistic and cultural diversity.

The scope of a standard legal education in the U.S. does not encompass the practical skills necessary for effectively representing clients who have migrated to the U.S., including foreign language skills, cultural sensitivity, open-mindedness (i.e. the ability to understand and accept different cultural perspectives, norms, and values), or the proper judgment necessary for

determining whether one is linguistically or culturally equipped to handle the case of an undocumented immigrant (e.g. the ability to determine how and to what extent an interpreter or translator should participate in the case or whether to advise the client to seek legal counsel with greater linguistic proficiency or cultural competence). Though these skills are becoming increasingly vital for immigration attorneys in the U.S., law schools have made minimal efforts to incorporate these forms of linguistic and cultural training into their curricula and address the legacy of hegemonic power structures in the U.S. legal profession. Clinics, international experiential learning opportunities, and intercultural field training, though utilized by small sects of law students at select schools, such as American University Washington, Pacific McGeorge University, City University of New York, and the University of New Mexico (Blumberg, 2014, p. 397, 404), have played an insubstantial role in the general education of law students. As a result, the majority of students preparing to enter the legal profession are ill-equipped to offer undocumented immigrants from various linguistic and cultural backgrounds competent representation.

### **Second Language Acquisition and its Role in Adequate Representation**

Second language acquisition is a crucial component of attorneys' ability to adequately represent clients from diverse linguistic backgrounds. The intimate connection between language learning and social interaction has been explored in depth within Gass's and Selinker's (1998) model for second language acquisition:

Language is not an isolated phenomenon that can be understood out of its social context. Consequently, learning is not situated in an individual's cognition; that is, it is not an intrapsychological process. Rather it is linked to social and local ecology; it is adaptive to an emergent set of resources, resources that are embodied in social interaction. Learning

is anchored in the social practices that a learner engages in. In this view linguistic utterances are sensitive to and reliant upon their interactional context. Unlike other approaches discussed in previous chapters, with a social interactive perspective on language, the linguistic code cannot be understood as an isolated phenomenon outside of its social context. Nor can one understand how learning takes place without the support of the social context. (pp. 280-281)

Legal scholars have expanded upon this important link by coupling language learning with culture. One of the more prominent of these, Curran (1993), explains, “A new language is far more than a mechanism for transmitting or receiving thoughts. Language emanates from a culture and, in turn, influences those who speak it” (p. 601). For this reason, U.S. immigration attorneys must ensure that communication is achieved with clients and that they are using their proficiency in the client’s native language to provide competent representation (Glick, 2017, p. 59).

According to Strong (2014), one of the principal ways to prepare U.S. immigration lawyers to adequately represent clients with limited proficiency in English is to teach U.S. law students how to read, analyze, and discuss legal concepts in a second language (p. 357). Though certain law schools, including Boston University, Hofstra University, Florida State University, Northwestern University, Pepperdine University, Stanford University, University of Alabama, the University of Denver, the University of New Mexico, the University of Pittsburgh, the University of Texas, the University of Utah, and William & Mary, offer elective foreign-languages courses to help law students develop such skills, the demand and rigor of a legal education often precludes students from taking them, inclining law schools to minimize funding in such courses (p. 355). Moreover, it is often not apparent until law students enter the workforce and begin their

practice that they find how indispensable foreign-language abilities are in their representation of clients with limited proficiency in English. The resulting shortage of U.S. lawyers with developed foreign-language skills increases the risk that certain segments of society, such as undocumented immigrants from Oaxaca, will be unable to obtain useful legal advice and assistance (p. 256).

### **Differences between Legal Systems and their Implications for Immigration Attorneys**

In terms of second language acquisition, immigration attorneys can adapt to their diverse client base by recognizing the inherent differences between legal systems that follow Napoleonic law, such as the Mexican system, and those based on case law, like the U.S. system. Due to these major systematic differences, many legal concepts and vocabulary have no precise counterparts across the two systems. Consequently, immigration attorneys' working with populations from other countries inevitably encounter these differences in their cases. Immigration attorneys who are able to conceptualize the idiosyncrasies of judicial processes and legal practice within varying systems can more readily adapt to immigrants' prior experiences with the legal system in their native countries, thereby offering a proportionate quality of legal counsel amidst ever-changing U.S. demographics.

### **Cultural Diversity and its Effects on the U.S. Legal Field**

Given the multicultural nature of the U.S. demographic, as well as increasing globalization in the field of law, immigration attorneys are inevitably called upon to represent clients from a variety of diverse cultural backgrounds (Bryant, 2001, p. 38). For this reason, they are expected to employ a developed sense of intercultural competence in their attorney-client interactions. As Blumberg (2014) states, "Overall, there has been an increased recognition of the importance of intercultural competency in the law school setting to improve advocacy and client

communication in an increasingly multicultural world” (p. 405). Lynch (2015) concurs, writing that, in a multicultural society such as that of the U.S.:

lawyers will be expected to be sensitive and sensible, not only about others’ culture, but about their own implicit cultural biases . . . all lawyers will be expected to be aware of their own implicit bias and to navigate issues of difference and privilege with others or on behalf of others. They will need to identify methods for preventing or addressing cross-cultural misunderstandings, and will need to have inculcated habits and attitudes which will improve their intercultural learning over the course of their professional life. (p. 137)

The multicultural makeup of the U.S. has emerged, in large part, as a result of the growing presence of Latin American immigrants. According to a report from Pew Research Center (2020), the U.S. is home to nearly 44.8 million immigrants with Mexican and Central American immigrants accounting for 50% of that total (Budiman et al., para. 1). Today one in eight Americans is Latino and one of four Americans will be Latino by 2050 (Mah, 2005, p. 1746).

Due to this evolving Latino population, unique languages and cultural traditions have made a tangible impression upon the U.S. population:

As the population of Latino Americans increases, the melting pot has morphed into metaphors such as “salad bowl” or “mosaic,” which connote discrete populations that altogether constitute the American whole. This has increased the viability of social norms in the U.S. They maintain a stronger sense of identity and retain social norms that do not conform to the American melting pot. (Mah, 2005, p. 1746)

In light of this, legal scholars have begun to acknowledge that “The United States is increasingly a multi-cultural country with a greater understanding that the ‘melting pot’ did not happen . . .”

(Bryant, 2001, p. 38). That is, despite growing pressure to assimilate, the Latino immigrant community has largely resisted the adoption of American cultural norms, opting to preserve the linguistic and cultural values of their native communities (Mah, 2005, p. 1723).

Additionally, it has become increasingly clear that Latin American and Latino individuals do not follow a monolithic set of linguistic or cultural norms. Given that these populations are naturally heterogeneous, Latin American communities, and their corresponding indigenous groups, greatly differ from one another in both attitude and behavior. This reality holds in the Mexican state of Oaxaca, which is home to 17 distinct indigenous groups, each with its own cultural and linguistic heritage (Kresge, 2007, 2). Members of these indigenous communities, especially those of older generations, speak minimal Spanish and lack access to written forms of their native languages (pp. 1, 3), which limits their ability to utilize Spanish translators and interpreters after migrating to the U.S. In this way, Oaxaca is emblematic of the fact that ethnic unity rarely emerges among diverse migrant groups, even those that have emigrated from the same geographic region (Mah, 2005, p. 1723). As a result of this complex linguistic and cultural diversity:

Lawyers cannot easily become ethnographers and must be careful not to make biased generalizations about individuals based on their ethnicity . . . Categorizing cultures in such a reductionist fashion reinforces “the belief that culture can be diagnosed and treated, that exotic or unfamiliar beliefs and behaviors of members of already disempowered subgroups should be controlled and adjusted to resemble norms of the dominant group. (p. 1747)

The vast diversity of values and norms among members of the Hispanic or Latino ethnicities demonstrate that it is insufficient for an attorney to simply employ universal conceptions or

treatments of neutrality or confidentiality when serving undocumented immigrants from the same region. Rather, they must be trained to avoid simplifying cultural differences or generalizing particular ethnic backgrounds through stereotypes. Such training will enable historically disempowered populations in the U.S. like undocumented Oaxacan immigrants to safeguard their personal norms and values within attorney-client interactions.

The increasingly apparent gap between the presence of racial and ethnic minorities working in the legal profession and the growing presence of such minorities within the U.S. population is equally relevant to this discussion of U.S. immigration attorneys' linguistic and cultural training. Falati (2020) explains:

the percentage of lawyers who are racial or ethnic minorities are growing slowly and far apart from the growth of these communities in the general public across the U.S. Indeed, according to a 2019 report by the American Bar Association, nearly all minorities are underrepresented in the legal profession. Only 5% of lawyers in the U.S. are African American, 5% Hispanic, and 3% Asian, and not only has this percentage remained unchanged in the past decade for all of these minorities, this disconnect between law and society is best reflected by the fact that the U.S. population comprises a much higher percentage of these minorities and this gap continues to get wider. (p. 630)

He then applies this issue to the importance of culturally competent attorneys, stating, "Irrespective of the lawyer's background, it is imperative in today's society . . . to have lawyers be able to skillfully navigate cultural issues and work with clients of all backgrounds" (p. 631). King-Ries (2008) echoes Falati's point in his own work: "In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity" (p. 32). That is to say, as

long as the presence of racial and ethnic minorities in the legal profession remains limited, immigrant clients will become increasingly alienated from the U.S. legal system as very few attorneys who share their clients' linguistic and cultural backgrounds will be equipped to represent them.

Given the rapid expansion of the Latino population, the linguistic and cultural norms of these diverse groups have a particularly prevalent application to attorney-client relationships:

Serving a client with different cultural bearings presents both great peril and opportunity for a lawyer. The explosion of Latino . . . populations in recent years increases the likelihood that lawyers will encounter clients who subscribe to different social norms. A look at a lawyers' own social norms reveals that the American bar is fixated on historical lawyering roles, rather than serving the rapidly changing American demographic . . . The legal profession can either adapt to the idiosyncrasies of Latino[s] . . . or become less relevant to a growing portion of society. (Mah, 2005, p. 1721-1722)

Such vast differences in social norms not only have the potential to harm attorneys' relationships with their clients. They can also obstruct cultural minorities' access to legal justice. Wong (2012) writes:

At a fundamental level, many of the systemic barriers to LEP [limited English Proficient] and cultural minorities' access to justice stem from the legal profession's failure to address the issue of diversity. This failure not only affects relationships between lawyers, but also the way in which lawyers interact with clients. (p. 462)

Consequently, those working in the profession of law in the U.S., who are frequently called upon to serve clients across cultural lines, must be especially sensitive to minority norms if they desire to cultivate trust and ensure justice in their clients' cases (Mah, 2005, p. 1724).



The intercultural skills necessary for effective advocacy in U.S. immigration cases can be more readily developed through the implementation of cultural competence training. According to Adams (2012), “when an attorney and his or her client come from different cultural groups, effective advocacy utterly depends on cultural competency” (p. 4). Indeed, the quality of communication, the level of openness and integrity, and the effectiveness of legal counsel depend upon lawyers’ ability to remove barriers between themselves and their clients, foster honest and accurate communication within the lawyer-client relationship, and ultimately promote justice in the cases of traditionally underserved groups (Patel, 2014). Though these forms of training are often not prioritized in the education of law students, with the proper training, practicing U.S. attorneys can be equipped with the necessary skills and knowledge for providing quality legal counsel to clients from different linguistic and cultural backgrounds.

### **Relevance to Immigration Attorneys**

The need for culturally competent counsel for undocumented Oaxacan immigrants has a particular bearing on U.S. immigration attorneys, who must grapple with both cultural differences and the problematic undercurrent of anti-immigrant sentiments, xenophobia, and the idolization of “homeland security” that has grown exponentially throughout recent administrations in the U.S. Immigration attorneys in the U.S. advocate for immigrant clients by confronting a convoluted labyrinth of laws regarding border security, lawful residence, and criminal procedure. They must fight to ensure certain rights for their immigrant clients throughout the legal process, such as a fair and speedy trial and due process, while actively combating a system prejudiced against undocumented immigrants and defiant in their obligation to ensure justice and fair treatment in their cases. They must work tirelessly to protect their immigrant clients from detention, deportation, and forced removal through a myriad of unlawful

policies, including Operation Streamline and Title 42. In short, immigration attorneys are on the front lines of immigrant advocacy in the U.S., working to protect the human rights of immigrants and noncitizens in a country rampant with blatant racial discrimination and overt anti-immigrant political agendas. As Rosa (2018) puts it, it is more important than ever to promote global and cultural competency among immigration lawyers as they play a pivotal role in ensuring a democratic and responsive legal system (p. 947). Thus, training attorneys to approach cultural differences between themselves and their clients with sensitivity and respect will better enable them to overcome this systemic opposition and fulfill their roles as legal representatives of immigrant clients.

### **Cultural Biases and their Ramifications for Attorney-Client Relationships**

Despite their commitment to justice in immigration cases, U.S. immigration attorneys are by no means immune to cultural biases and stereotypes in their intercultural communication. Indeed, the human tendency to implicitly favor one's own cultures over those of others render immigration lawyers susceptible to the very prejudices they work tirelessly to dismantle in the U.S. legal system. When immigration attorneys fall prey to their own cultural biases, the outcomes of their clients' cases are often plagued with miscommunication, unfairness, or even miscarriages of justice, as was seen in the case of Annie Ling (Wong, 2012, pp. 431-432). Such instances diminish the quality of legal representation available to immigrant clients, further perpetuating minorities' skepticism toward the legitimacy of the U.S. legal system and its actors. As Kuehl (2016) writes, "Unintentional exercises of cultural privilege or bias by lawyers may lead to unfairness in the creation, regulation, interpretation or implementation of laws, thereby affecting the legitimacy of our legal systems in the eyes of community members" (p. 130). In order to remedy these issues, it is all the more urgent that U.S. immigration attorneys are trained

to counteract any inherent cultural biases and stereotypes that might hinder their ability to develop trusting relationships with their clients and ultimately represent them effectively.

### **Cultural Competence Training for Attorneys**

The positive results of cultural competence training for attorneys are iterated thoroughly by Bryant (2001) in her noteworthy article “The Five Habits: Building Cross-Cultural Competence in Lawyers.” During a lengthy discussion of law students’ cross-cultural competence training, she writes:

The evolution from being able to talk the talk of ‘cross-cultural’ to walking the walk of ‘cross-cultural’ requires a capacity to recognize when we are making assumptions and judgments about our clients that grow out of our own cultural blinders. If students can attain this heightened awareness, they can begin to develop competence. (p. 87)

Bryant argues that cross-cultural training helps lawyers to anticipate and highlight potential difficulties their clients may be experiencing as a result of cultural differences. It also enables them to identify points of connection between themselves and their client, to understand themselves as “the same” as their client, and to be mindful of cultural differences, such as inherent privilege and power dynamics, so that they can substitute their own judgments for the client’s (p. 46).

It must be noted that the recognition of an attorney’s own cultural blinders never occurs automatically. Their ethnocentric assumptions, judgments, or tendencies to “fill in the blanks” (p. 55) when interpreting the attitudes, beliefs, and behaviors of clients stem from inner cultural biases and stereotypes that operate subconsciously within the individual. However, with proper cultural competence training, attorneys can begin to make conscious choices to critique and

dismantle their own inner prejudices, thereby enabling clients to present their cases in ways that respect the beliefs, values, and norms of their own cultures (p. 47). According to Mah (2005):

The starting point for serving culturally diverse clients is not to examine their beliefs, but rather to examine the professional's own assumptions and normative behaviors. This process of self-reflection and self-critique is perennial. The new professional norms would effectively encourage lawyers to listen respectfully to each client and decipher whether the old norms of interacting with clients would serve this particular client well. (pp. 1747-1748)

For this reason, training attorneys to recognize their own faulty judgments will allow them to adopt the perspectives of their clients as they approach their cases. It will also prepare them to recognize “kinds of social capacities lawyers need in order to be fully competent, including the capacity to listen carefully, to work collaboratively, and to question their own stereotypes and assumptions” (Bryant, 2001, p. 134). These skills will enable immigration attorneys to offer effective and adequate legal representation to immigrant clients despite vast differences in language and culture.

### **Relevance to Undocumented Immigrants from Oaxaca**

The value of linguistic and cultural training for U.S. immigration attorneys has a pertinent application to undocumented immigrants from Oaxaca, Mexico. According to Israel and Batalova (2020), Mexicans are the largest group of immigrants in the U.S., constituting 24% of the nearly 45 million foreign-born individuals presently residing in the country (“Mexican Immigrants in the United States,” 2020, para. 1). Of this population, large concentrations have migrated from the state of Oaxaca, many of whom have settled in certain regions of California, including the Central Valley, San Diego County, Los Angeles County, Fresno County, and the

Santa Maria and Salinas Valleys on the Central Coast (Kresge, 2007, pp. 1, 5). As of 2014, a total of 500,000 Oaxacans are estimated to live in the United States, 300,000 in California alone (Bacon, 2014, para. 1).

Many Oaxacan migrants, particularly farm workers and agricultural laborers, hail from indigenous communities, bringing unique linguistic and cultural characteristics with them to the U.S. In the United States, 68% of foreign-born farmworkers originate from Mexico. Of this percentage, 20% are from the states of Mexico with the largest indigenous populations, including Oaxaca (“Farmworkers’ Health Fact Sheet - Demographics,” 2012, p. 2). The U.S. Department of Labor’s most recent National Agricultural Workers Survey (NAWS) data indicates that 62,208 U.S. farmworkers were born in the state of Oaxaca (Kresge, 2007, p. 5). In fact, according to a report from 2014, there has been a surge of indigenous Oaxacans in California agriculture since the early 1990s (“Settlements in California,” 2014, para. 3). Another study conducted by the California Farm Labor Force indicates that 38% of the state’s farmworker labor force in 2005 included indigenous Oaxacans, making them the fastest growing farm labor group in California (Garrigues, 2013, para. 5). This data indicates that Oaxacan immigrants constitute an increasingly prevalent sector of foreign-born individuals in the U.S. and, therefore, ought to be intentionally considered in this investigation of linguistic and cultural training for U.S.

immigration attorneys.

It should be noted that Mexican indigenous communities are not exclusive to Oaxaca as many such populations can be found across Mexico, most prominently in the southern states of Guerrero, Chiapas, and Veracruz (Kresge, 2007, p. 1). For this reason, research pertaining to the cultural context of Oaxaca can apply to the legal representation of undocumented Mexican immigrants beyond Oaxaca. Given the common linguistic, cultural, economic, and societal

characteristics between Oaxaca and neighboring regions of Mexico, such as indigenous people groups, pre-Hispanic languages, and widespread subsistence farming, the findings from this investigation can be considered in light of the cases of Mexican immigrants from one of the other aforementioned regions, extending the relevance of the investigation to U.S. immigration attorneys who represent undocumented Mexican immigrants from a variety of states and regions.

### **Research Scope**

#### **Oaxaca, Mexico**

Given that I was granted the opportunity to do partial ethnography (i.e. ethnographic research that does not involve direct participation in the community at hand) in Oaxaca as a component of this research, the scope of this investigation is confined to the cultural context of this particular region. Oaxaca is a prime example of linguistic and cultural diversity in Mexico, from which a vast variety of languages and cultural traditions have been brought to the U.S. by immigrants and refugees. As the presence of Oaxacan migrants in the U.S. becomes increasingly prevalent, particularly in the state of California (Kresge, 2007, p. 1), U.S. immigration attorneys are encountering Oaxaca's linguistic and cultural diversity more frequently than ever. Because of this, an investigation of the linguistic and cultural training of immigration attorneys has a considerable bearing on immigrant clients from Oaxaca. In spite of this contextual focus, this work has the potential to aid immigration attorneys representing migrants from regions of Mexico beyond Oaxaca, such as Guerrero, Chiapas, and Veracruz.

#### **Attorneys**

Given the distinct urgency of implementing linguistic acquisition and cultural competence into the training of legal professionals, this investigation focuses specifically on the work of attorneys, as opposed to other advocates. In the context of the U.S., the legal field has

been much slower than other fields, such as medicine and social work, to intentionally incorporate foreign-language instruction and cultural competency into the skills training of students preparing to enter the field. As Lynch (2015) confirms, “Cultural competencies can be taught. Indeed they are taught to educators, translators, social workers, nurses, missionaries, and a host of others who deal with diverse populations. By and large, they are not taught to lawyers” (p. 135). In light of these realities, it is apparent that U.S. attorneys, particularly those working in immigration or public defense, require more linguistic and cultural training compared to other types of advocates and ought to be the focal point of this investigation.

### **Immigration Attorneys**

The research focuses specifically on immigration attorneys as they represent sectors of Oaxacan immigrants that are more likely to be underserved by the U.S. legal system in comparison to naturalized citizens or permanent resident holders born in Oaxaca. Attorneys working within other areas of law typically represent naturalized Oaxacan immigrants, or Oaxacan immigrants who have obtained U.S. citizenship or permanent residence. These individuals, now residing in the U.S., often seek legal representation in a variety of matters apart from immigration. Undocumented Oaxacan immigrants, in contrast, are most likely to seek legal representation from immigration attorneys, as opposed to attorneys from other areas of the legal field. For this reason, this research is most pertinent to attorneys practicing in the area of immigration.

### **Undocumented Immigrants**

The research centers on undocumented immigrants from Oaxaca, as opposed to documented Oaxacan migrants, Oaxacan asylees and refugees, and Oaxacan immigrants who have obtained U.S. citizenship, as undocumented immigrants have been grossly underserved by

the U.S. legal system, more than other groups of immigrants who hail from the same region of Mexico. Further, undocumented Oaxacan immigrants have a greater demand for legal counsel from U.S. immigration attorneys compared to those who have obtained documentation, asylum, or citizenship. Therefore, this research is most pertinent to immigration attorneys who represent undocumented Oaxacan immigrants in legal contexts.

### **Theoretical Framework**

#### **Positionality**

**Personal background.** My position as researcher is a product of my identity as a Filipina-American woman born in the U.S. and the daughter and granddaughter of Filipino immigrants who have obtained citizenship in the U.S. Although I am the descendent of immigrants whose native languages are Tagalog and Spanish, I myself am a native of the U.S. whose first language is English. This makes me an outsider in relation to Oaxacan immigrant communities and the Oaxacan culture in which I have conducted this research. Additionally, as an undergraduate student of Latin American and Latino Studies, Spanish, English, and Political Science with limited work experience at an immigration law firm in the U.S., I do not write from the vantage point of an experienced legal scholar or immigration attorney. However, my unique positionality equips me to bridge the linguistic and cultural gaps between English-speaking immigration attorneys in the U.S. and Spanish-speaking immigrants from Oaxaca whom they represent. Indeed, my experience as a university student and legal assistant in the U.S., combined with the unique opportunity I have had to complete coursework and conduct research in Oaxaca, furnishes me with various elements of both groups that allow me to facilitate greater understanding between them.



**Acknowledgment of cultural biases.** Despite the advantages of a positionality rooted in both the U.S. and Oaxaca, my background also presents inherent biases which must be overcome in order to conduct this research ethically. During my studies abroad, I discovered that the interpersonal and domestic practices I have cultivated in the U.S. often clash with cultural norms in Oaxaca. For example, before moving into my hosthome in Oaxaca, I was unaccustomed to being served meals, cleaned up after, and thoroughly accommodated by the mother of the household. In my home in the U.S., each member of the house assumes certain roles and collectively bears the load of the cooking and housework. For this reason, I felt guilty for not helping to prepare the food, set the table, wash the dishes, or complete other chores around the house. However, I eventually came to recognize that, like many female homemakers in Mexico, my host mother took great pride in maintaining a comfortable living space for her family and guests and providing for their needs in whatever way she could. In fact, my attempts to take on responsibilities instead of allowing her to care for me were considered rude and inconsiderate. These realizations exposed a sharp cultural distinction between the household dynamics in the U.S. and those in Oaxaca. They also revealed a cultural bent within myself to assert my independence by caring for my own needs in my homestay.

During my time in Oaxaca, I also faltered in my academic and professional relationships, often reverting to the U.S.-oriented behaviors and practices I was accustomed to utilizing in my interactions with professors or other authorities in the U.S. These decisions revealed important assumptions and judgments inherent in my conception of academic and professional relationships that failed to align with norms in Oaxaca. For example, during the early stages of connecting with a particular organization in Oaxaca for the possibility of an internship, I assumed that I ought to rely on my academic director to help me establish professional

relationships with the leaders of the organization. This assumption stemmed from internalized norms created by my prior experiences with networking in the U.S. Typically when a professor or supervisor would connect me with a colleague with whom I had not yet been acquainted, I relied on the mutual connection to build our relationship by speaking on my behalf. However, such expectations did not fit with the professional norms exercised by my teachers, supervisors, and academic directors in Oaxaca, in which one ought to initiate and maintain communication with the organizational leaders without the aid of a mediator.

**Application to research.** These problematic instances have taught me that cultural competence by no means comes naturally. After spending ample time in the cultural context in which my research was conducted, I am often inclined to revert back to my own cultural biases and inadvertently perceive my culture's norms as proper or correct compared to those of others. Through this immersive experience, I have learned that this tendency fuels my treatment of my culture's values and norms as superior or representative of normal ways of navigating situations. Immigration attorneys, many of whom never have the opportunity to immerse themselves in the cultural context of Oaxaca, are equally susceptible to this cultural trap of comparison. As a result, they must engage in an ongoing process of self-reflection in order to recognize these wrongful comparisons and dismantle harmful biases in which they are operating. As Falati (2020) writes:

The journey of self-assessment and how one's own cultural background, attitudes and beliefs have been formed and how it can taint one's effective lawyering of a client from a diverse background is an on-going life-long journey for the future lawyer in which the professional must seek out relevant educational and training opportunities. Only by taking this first step of becoming aware of one's own cultural background, can the law

student or lawyer begin to effectively represent clients from all kinds of backgrounds. (p. 644)

Immigration attorneys engage in cross-cultural interactions every day without the proper knowledge or skills for recognizing inherent cultural biases within themselves. For this reason, research on cultural competence training for U.S. immigration attorneys is all the more timely. My hope is that this research would be a powerful reminder for myself, as an aspiring immigration lawyer, and the many immigration lawyers presently serving undocumented Oaxacan immigrants in the U.S. of our obligation to uproot linguistic and cultural biases within ourselves, thereby mitigating their harmful influence on our intercultural relationships.

### **Research Methodology**

The research is inductive in nature, conducted in accordance with a qualitative methodology suitable for drawing conclusions from my primary research. The methods for data collection principally consisted of semi-structured interviews guided by a list of predetermined themes and questions. This strategy allowed the interviews to maintain a general focus while remaining open to unanticipated lines of questioning that may emerge during the interview process. This flexibility in interview structure also promoted greater interpersonal engagement and helped foster greater rapport with interviewees. After conducting these interviews, I analyzed their contents in order to trace key themes, noted common experiences, and documented valuable insights from each interviewee.

I chose to conduct two separate interviews with attorneys based in Oaxaca, one a U.S.-licensed and Mexico-licensed attorney and the other a Mexico-licensed attorney and a member of one of Oaxaca's most prominent indigenous communities. I began the process by extending the invitation to participate to each interviewee through email. In each email, I

explained my reasons for choosing the participant as a potential interviewee, as well as the purpose, methods, and objectives of the research, and the topics. I indicated that the interviews would be conducted in person at the office of School for International Training in Oaxaca and invited interested participants to provide the date and time that was most convenient for them. Upon confirmation of the interviewees' willingness to participate, I emailed each participant the list of questions which would be presented during the interview so that they would have ample time to consider their answers. On the dates of the interviews, I presented each interviewee with a Declaration of Proposition and Record of Consent for Use of Information. This document stated the purpose of the interviews, the estimated time required to conduct the interviews, and the questions that would be administered during the interviews. It stated that the audio portion of the interviews would be recorded and used exclusively for completing in-depth analyses. It also clarified that the recordings would be stored in my personal electronic files, that they will not be copied, duplicated, or disbursed, and that they will be erased at the time of the project's submission. After being informed of these conditions, the participants chose whether or not they would offer their consent to be interviewed. The participants who chose to offer their consent were instructed to provide their signature at the bottom of the document. Although both interviewees agreed to be recorded, participants were given the opportunity to opt out if they preferred not to be recorded.

## **Analysis**

### **First Interview**

I conducted the first interview with Denise Spalding, a U.S. immigration attorney who was licensed in California and later migrated to Oaxaca, Mexico. When she was living in the U.S., her practice was focused on defending undocumented individuals in San Diego from

deportation. However, now that she lives in Oaxaca, her practice focuses on reopening cases for those who have been deported, as well as appealing and litigating cases in the Board of Immigration Appeals and Ninth Circuit Court of Appeals. Given her background as a law student in the U.S., her experience as an attorney in the U.S. and Oaxaca, her time as a resident in Oaxaca, and her proficiency in the Spanish language, I felt that her insights would be of great benefit to this research. The entire interview process took approximately 30 minutes and was conducted in English.

I began the interview by asking how Denise's proficiency in Spanish has enabled her to more effectively advocate for her clients in Oaxaca. She explained that since the majority of clients speak Spanish, it is essential for attorneys to have the ability to communicate with their clients in that language. In cases where clients speak an indigenous Oaxacan language, communicating in Spanish is not ideal since this may require clients to speak in their second language. However, attorneys are able to work with translators from their clients' communities in order to ensure clear communication with the clients. I pursued this inquiry further by asking how Denise's work as a legal advocate for immigrants in Oaxaca would change if she were unable to interact with them in Spanish. She explained that earlier in her career when she felt less comfortable speaking Spanish, she relied on translators to help her communicate with clients. At that point, she was a new attorney and her Spanish was not developed enough to communicate directly with clients. She shared that one translator with whom she had worked very closely became a mentor for her. She helped her to improve her Spanish skills so that she could use the language in attorney-client interactions.

Denise emphasized that an inability to speak Spanish or indigenous Oaxacan languages separates attorneys from their clients. This is because when attorneys rely on translators or

interpreters, their communication must always go through a third party. Consequently, the interpreter may fail to properly convey the intended meaning of words or ideas between the attorney and the client. Not only does this make the interaction impersonal, but it also precludes the attorney from building trust with the client. Direct communication and fostering trust and confidence with a client are both key to representing a client well. Without a common language, it is very difficult for an attorney to accomplish these goals.

Denise clarifies that an attorney can still engage in meaningful communication and build trust with a client even if they must use an interpreter. In some instances, the interpreter has excellent communication skills, as well as ample experience interacting directly with clients in their native language. However, it must be noted that when an attorney relies too heavily on an interpreter, they fail to develop the skill of direct communication with clients because they are communicating exclusively through the interpreter. If an attorney wants to practice one-on-one dialogue with their clients and, ultimately, develop trusting relationships with them, Spanish language skills are essential. As an attorney who did not speak Spanish well enough to communicate directly with clients in the U.S., she can see a profound difference between the indirect relationships she was able to cultivate with clients through an interpreter then and the connections she is able to make with clients through one-on-one interaction.

I then inquired about the kinds of misunderstandings or communication failings that are likely to occur in attorney-client interactions when an attorney and their client do not share a common language and whether Denise's proficiency in Spanish has allowed her to avoid such pitfalls in communication. She explained that significant barriers in communication arise in cases where the clients speak indigenous languages. Although she is able to speak with them in Spanish, they sometimes do not have a firm grasp of the language, making it challenging for

them to understand what she says. For example, it is difficult to express to indigenous Oaxacan individuals that their loved ones have been detained for criminal or immigration reasons. When the interpreter attempts to translate these procedures into an indigenous language, even while avoiding complicated legal terminology, it is likely that clients will encounter confusion in meaning. This is because such discussions involve words that an interpreter who is unfamiliar with the relevant legal processes does not know how to translate. In these instances, the attorney must ensure that their explanations are simple and easy for the interpreter to express so that the procedures can be clearly explained to the client. Even simple words like “crime” do not have one straightforward translation in indigenous languages. When individual words lack a universal meaning, this renders the task of discussing an entire procedure infinitely more difficult. She noted that it would be beneficial if attorneys could be trained to speak indigenous languages. However, she believes that cultural competence can make an even more profound difference for attorneys as they engage in interactions with indigenous clients.

I asked Denise how immersion in Oaxacan culture has substantiated her Spanish language skills, particularly in the context of lawyer-client interactions. She shared that she has a twin sister who is also an attorney and who works with Oaxacan immigrants in California. Although her Spanish-speaking skills are developed, when she comes to Oaxaca, her informal expression (i.e. verbal communication outside of formal or professional contexts) does not come as naturally. Because she uses Spanish primarily in a professional setting, she lacks the ability to communicate in less formal contexts. Denise emphasizes that the way in which an attorney approaches conversations, either professionally or personally, is important in intercultural interactions. With clients from Oaxaca, she begins conversations by discussing the weather or the corn crop for example, before discussing their cases. This knowledge is key for an attorney’s

cultural competence. Without immersion in Oaxaca, it is more likely that attorneys will refer to their own professional norms, thereby disregarding the communication norms of their clients' culture. In Oaxaca, overt directness in conversations with clients indicates to clients that the attorneys are in a hurry and do not have enough time for the clients. However, when attorneys take the time to ask about the clients' lives or families, it can help foster greater trust in attorney-client relationships. This demonstration of care for the client makes the attorney more qualified in the eyes of the client than where the attorney completed their studies or how much experience they have.

During Denise's time as an attorney in the U.S., she noticed that when Oaxacan individuals physically show up to someone's home or office, they demonstrate that they are taking the matter seriously. Likewise, when a legal client comes to her office, they show a great interest in having her represent them in their case. However, if a client comes to an attorney's office in the U.S., that can be considered rude. To them, it is a demonstration of the client's intentionality and effort to meet with the attorney. There is a similar difference when it comes to correspondence by phone. Clients from Oaxaca do not leave voicemails when they call their attorneys. This can be irritating to U.S. attorneys because the client will say that they called, but the attorney did not know because there was no message left. However, to the client, the missed call indicates that the attorney is not available and so they opt to call again later or come to the office instead of leaving a message. Another example of differing cultural norms in professional contexts is the adherence to a schedule. In the U.S., it is considered polite to begin and end a meeting at the scheduled time because it shows that the attorney respects the client's time. In Oaxaca, as in most cultures, cutting a client off at a certain time or beginning a discussion of the client's case without first discussing personal matters in the client's life can preclude the attorney



from developing a trusting relationship with that client. These lessons have been eye-opening for her as she has developed cultural competence as an attorney. After living in Oaxaca for many years and receiving ample guidance and support from mentors in the culture, she has found that she seldom encounters cultural barriers with her clients in Oaxaca.

These subtle differences in professional norms between the U.S. and Oaxaca reveal that every culture presents unique, yet equally legitimate ways of engaging in communication. Likewise, a lack of awareness of these cultural differences can negatively impact an attorney's interaction with their client. Attorneys who have only practiced in the U.S. are less likely to recognize these important differences in culture. Therefore, living and working in Oaxaca can help attorneys more readily encounter these differences and adjust their own communication strategies to the cultural norms of their clients.

I asked Denise about the cultural biases and stereotypes that typically hinder U.S. immigration attorneys from effectively representing Oaxacan immigrants. She explained that, with respect to culture, speaking too quickly or asking questions that are too direct are two common mistakes attorneys make in their intercultural communication. If an attorney speaks quickly, clients will feel that the attorney does not have ample time for them. If they ask overly direct questions, this will come off as abrupt or rude to clients, disinclining them to answer. It is not always obvious to an attorney whether a question is too direct. If a client from Oaxaca tells their attorney that their grandmother passed away, for example, it would be intrusive for the attorney to immediately ask how she died. For a U.S. attorney, this question might seem perfectly acceptable. However, the client might see this question as overly intrusive and choose not to share that information with the attorney.

I continued by asking Denise how law students could be equipped with the cultural competence to avoid these mistakes. She stated that spending time in another culture is the best way to develop such competence. Although training and workshops on intercultural communication can be helpful, engaging with the culture and hearing from individuals from that culture makes a substantial difference with respect to attorneys' cultural competence. I proceeded to inquire about the ways in which law students in the U.S. would be better equipped to advocate for Oaxacan migrants if their law schools provided immersive opportunities, such as clinics or externships abroad, that would allow them to engage with the Oaxacan culture first-hand. One point she made was that without immersive experiences, cultural training comes off as a simple "do and don't" list. In law school, students are simply learning to read case law. Their coursework does not prepare them for the actual practice of law (e.g. to communicate well with clients or to be good advocates). In law students' first year, they have not learned how to conduct an interview or hold meetings with clients. Consequently, they do not yet have the proper intellectual context for engaging in cultural training.

Denise emphasized that attempting to teach cultural competence outside of an immersive cultural experience can incline students to generalize or rely on cultural stereotypes. In fact, it can preclude students from moving below the surface of intercultural "rules" in order to understand why a cultural norm is what it is. However, in law schools' clinics, discussions of cultural competence can be immensely useful to students as they serve to supplement the knowledge they have gained in their first two years. If law schools were to implement this kind of cultural training in their clinics, it could help equip law students to avoid the traditional pitfalls that many attorneys fall into when representing Oaxacan clients.

I then shifted to the question of how linguistic and cultural competence training for attorneys is conducted in the context of Oaxaca and how this training has fostered effective advocates for undocumented immigrants who have migrated from Oaxaca to the U.S. Denise addressed these questions by explaining that the training done in Oaxaca is meant to immerse attorneys in the culture and help them open their minds and shift their perspectives. Participants in their workshop come from both the U.S. and other countries, bringing a vast variety of conceptions of Oaxacan culture. During an immersive two-week period, participants hear speakers talk about their communities in Oaxaca, different ways of understanding governance, as well as various topics relevant to Oaxaca, such as disappeared migrants on their way to the border and trauma-informed interviewing. Speakers also educate participants on issues faced by Oaxacans, the implications of speaking indigenous languages (i.e. how one who speaks an indigenous language is treated in Mexico), the meaning of nonverbal communication (e.g. showing up to the office or giving gifts), and the ways in which these issues can inform or influence how attorneys communicate with their Oaxacan clients.

The goal of these workshops is not merely to provide new knowledge or explain to attorneys how they ought to communicate with their clients. Rather, it is to open up conversations and encourage self-reflection among attorneys. Participants should begin to ask themselves, “What mistakes have I made that I can remedy?” and “How can I look inwardly so that I can approach communication with clients with greater humility?” The ultimate objective of linguistic and cultural training is not to teach attorneys rules, but to help them begin to change their perspectives and to take other cultures seriously.

Denise noted that attorneys often come with many stereotypes or prejudices. They believe that Oaxacans are a certain way. However, she states that these attorneys have not really

stepped out of their professional contexts and traveled to other places in the world. Attorneys who only interact with Oaxacans in professional contexts tend to put them in bubbles and “otherize” them through stereotypes and generalizations. However, spending time in Oaxaca exposes them to the richness of the culture. It gives them a “three-dimensional” understanding of Oaxacans that can account for the linguistic and cultural diversity of the region. It helps them move beyond stereotypes in order to learn the meaning and significance behind Oaxacan norms and values. It gives them a new vision that allows them to view another culture’s way of life in all its fullness. Ultimately, it enables them to become better legal representatives of their clients. Denise notes that having members of the target culture as speakers in the workshop is key. By inviting individuals from Oaxaca to the U.S. to speak, she believes that cultural workshops in the U.S. could begin to incorporate these valuable perspectives into their training of attorneys.

I closed the interview by asking Denise to share her personal recommendations for training U.S. immigration attorneys to adequately represent undocumented Oaxacan immigrants. She responded that attorneys must be trained to look inwardly, to recognize their own prejudices, and to learn to counteract them. Only then can they begin to learn how to communicate properly in intercultural situations. Although workshops offer a useful starting point for engaging in these practices, they should continue to develop these skills in their day-to-day work in order to truly dismantle lingering biases within themselves. Regular follow-up training can be helpful for extending the learning process. She recommends that attorneys travel if they are able, practice self-awareness, and constantly reflect on the ways they communicate in intercultural situations. She also explained that networking across borders is immensely helpful for developing cultural competence as it promotes intercultural communication and connection between attorneys.

**Second Interview**

I conducted the second interview with Rosalia Loida Morales, an attorney licensed in Mexico and a participant in several transnational trainings in Mexico City and San Diego. She is an indigenous woman who lives in a Zapotec village south of Oaxaca. In addition to her work as an attorney, Alicia is considered one of the finest weavers in her community and is well-respected for her service and leadership. Given her background as a law student in Mexico, her experience as an attorney in Oaxaca, her participation in transnational training on legal reforms in the U.S. and Mexico, her time as a resident of Oaxaca, and her membership in an indigenous community in Oaxaca, I felt that her insights would be of great benefit to this research. The entire interview process took approximately 35 minutes and was conducted in Spanish.

I began the interview by asking how the common language of Spanish enables her to effectively advocate for her clients in Oaxaca. She explained that since Spanish is one of the most common languages spoken in Oaxaca, it is very practical for attorneys to use the language when working with their clients. At times, it can be difficult to use technical legal jargon or explain complex legal processes to a client. For this reason, having a common language is extremely useful for promoting clear communication between an attorney and their client. However, attorneys may encounter more complex linguistic dynamics while representing individuals from indigenous communities who lack a firm grasp of the Spanish language. In these situations, attorneys use interpreters to communicate the details of cases to their clients.

I asked Rosalia how Spanish language skills could enable U.S. attorneys to better advocate for Oaxacan clients, particularly in immigration proceedings. She explained that it is critical that an attorney representing clients from Oaxaca use the clients' native language in their

attorney-client interactions. If the attorney relies solely on interpreters, communication is always accomplished through a third party. This increases the possibility that the interpreter will not communicate words or ideas the way that the speaker intends to convey them, thereby detracting from each individual's ability to properly understand the other. If attorneys can acquire the language skills necessary for interacting with their clients without the aid of an interpreter, this will minimize the possibility of misunderstandings or communication failings. Therefore, it is ideal that the attorney communicates with their clients in Spanish and, if possible, indigenous languages in order to engage in direct communication and ensure clarity and understanding in attorney-client interactions.

I then inquired about the role that knowledge of indigenous languages, such as Zapotec or Mixtec, play in the work of an attorney or advocate in Oaxaca. According to Rosalia, those who come from these communities will be better equipped to work as advocates for their clients because they can speak the language. She explained that there are attorneys in Oaxaca who specialize in the defense of indigenous rights and practice law primarily in the language spoken by the members of their particular indigenous communities. For example, those in Zapotec villages speak Zapotec while those in Mixtec villages speak Mixtec. However, it is important to note that indigenous languages vary widely from town to town, making it even more complicated for attorneys to use the language outside of particular communities. Therefore, while attorneys can apply their knowledge of Spanish to clients from a variety of countries and cultures, their understanding of Zapotec or Mixtec may only prove useful with clients from a certain village or area as opposed to the many other regions of Oaxaca in which the languages are spoken.

I continued this discussion of indigenous languages by asking whether or not U.S. attorneys working with individuals from indigenous groups in Oaxaca should be equipped with

basic knowledge of indigenous languages. Rosalia responded by stating that basic language skills can prove useful for U.S. attorneys because many migrants who come from indigenous communities in Oaxaca do not speak Spanish fluently, making it challenging for attorneys to communicate with them as clients in the U.S. Therefore, a basic understanding of indigenous languages can help attorneys of indigenous Oaxacan clients by enabling them to engage in direct communication without the use of an interpreter. These conversations, though simple in nature, can allow the attorney to build greater trust and confidence in their relationships with these clients.

I continued the conversation by asking how living and working in Oaxaca has influenced her approaches to legal representation of Oaxacan clients. She shared that practicing law in her clients' community has enabled her to develop an intimate sense of familiarity with her clients. After living in Oaxaca her entire life, she has accumulated a rich understanding of her clients' daily lives, their living conditions, their customs, the political or social issues with which they grapple, and their relationship with the land and natural resources that nourish them. It has also granted her knowledge of the ways in which these individuals navigate the world and the unique circumstances they face on a regular basis. She explains that, in terms of immigration, attorneys who have not lived and worked in these communities do not understand the reasons why a member of an indigenous community might choose to migrate, such as the discrimination of indigenous groups by police forces or the local government or the fact that the farmable land no longer produces enough food to sustain their family. U.S. attorneys lack the mental framework for properly interpreting the motivations for migration because they do not have a clear understanding of the conditions individuals from indigenous communities in Oaxaca face.

Rosalia explained that cultural context is key to effective legal counsel because it allows the attorney to learn how the client thinks and why the client does what they do. An attorney who resides in their client's culture has a better understanding of the cultural nuance in their client's actions and decisions. Indeed, through personal experience with these communities, attorneys can come to understand traditions and customs of these groups, allowing them to connect the details of a client's case with the norms and values of the community from which they come. Becoming familiar with the traditions and customs of their clients' communities gives attorneys a unique insight into their clients' ways of thinking and, in turn, enhances the quality of legal representation they are able to provide to their clients.

I then inquired about the knowledge or perspectives that lawyers who live and work in Oaxaca possess. Rosalia explained that attorneys from Oaxaca, especially those who come from indigenous groups, have an intimate understanding of how indigenous communities in Oaxaca operate. They have acquired a unique vision of how these groups approach their day-to-day existence (e.g. how their economies work or how their food is prepared). In essence, attorneys live as neighbors to their clients, observing first-hand the traditions, the customs, and the issues facing their communities. Further, because these attorneys have developed a deep familiarity with their clients, they are able to create a unique sense of trust with clients that U.S. attorneys simply cannot generate. Therefore, a personal understanding of the cultural contexts from which Oaxacan clients come is paramount for effective communication and, ultimately, effective legal advocacy.

Rosalia emphasizes the fact that language skills alone are insufficient for truly understanding their Oaxacan clients. It is indubitable that when an attorney can communicate directly with clients in their native languages, they can better understand what their client is



attempting to verbally express. However, when an attorney shares experience in a common culture, they are able to better understand how their client lives, how they relate to others, how they navigate social issues within their community, how they nourish themselves, and how they celebrate together, and how they conduct their daily affairs. Learning a second language cannot equip attorneys with these kinds of cultural perspectives. She states that attorneys cannot attain these forms of knowledge through total immersion in their clients' cultures. However, attorneys who have engaged with their clients' communities in this way truly understand who the client is, where the client comes from, and why the client does what they do, not merely what they say.

From here, I pivoted into a discussion of how Rosalia's identity as a respected member of the Zapotec community of Oaxaca has enhanced her cultural competence with legal clients who come from indigenous groups in Oaxaca. She explained that her membership in the Zapotec community has granted her knowledge of many issues particular to Zapotec people groups, most notably their efforts to preserve their language, traditions, and customs despite external pressures. Additionally, her residence in the Zapotec community has enabled her to build personal relationships with community members, thereby obtaining an understanding of their styles of expression and ways of life that transcends the realms of language and culture. She states that for attorneys who do not reside in these communities, it can be difficult to comprehend the significance of preserving these threatened cultural elements and confronting the forces that threaten their way of life.

Another reality that attorneys in the U.S. may not immediately recognize is the striking heterogeneity of the Zapotec community. Across the regions of *Sierra Norte*, *Sierra Sur*, and *Valles Centrales*, the Zapotec groups vary to such an extent that they are, in some sense, different cultures altogether. Though Rosalia has not become intimately acquainted with every variety of

Zapotec culture, expression, and lifestyle, her recognition of diversity among Zapotecs has informed her way of approaching Zapotec clients from other areas of Oaxaca. Consequently, she is able to account for important linguistic and cultural differences between herself and her clients, adjusting her communication strategies accordingly.

She then delved into her personal experiences representing indigenous clients from various towns and villages in Oaxaca. She explained that her work with these clients has educated her on important aspects of indigenous Oaxacan culture, such as the communal efforts to defend land and natural resources and preserve their languages, customs, and traditions. Indeed, each opportunity she has to serve these individuals has helped her to better understand the community's customs and way of life. Rosalia's legal work in these contexts has not only benefited her, but it has also benefited her clients, who view her as someone with a profound understanding and care for their communities. Consequently, when it comes to explaining complex legal processes or reviewing various legal documents, clients can trust that she understands their needs and can be trusted to represent them effectively.

We then discussed the ways in which linguistic and cultural training for attorneys is accomplished in Oaxaca and how it has benefited attorneys in the U.S. We talked at length about her role in a workshop in Oaxaca that educates attorneys from outside of Mexico on a variety of issues pertaining to language, culture, and communication in the context of legal advocacy. During a two-week period, they learn from speakers in the community about political, economic, social or religious issues facing Oaxacans, the day-to-day realities that Oaxacans navigate, the conditions in which Oaxacans live, as well as their motivations for migrating to the U.S. She shared that the workshop has been extremely impactful for the attorneys who have participated. Through lectures, seminars, and cultural immersion in Oaxaca, these attorneys begin to

understand where their clients come from, how their clients live and relate to their families and communities, and why they make the choices that they make.

Through this workshop, attorneys begin to recognize the cultural prejudices that preclude them from truly understanding their Oaxacan clients. They are able to relinquish their previous notions of these Oaxacan identity and culture and come to know them for what they really are. They begin to see that they do not really know their clients until they have experienced the communities from which they come. When attorneys immerse themselves in these cultures, they enter their clients' worlds. This is particularly true for members of certain indigenous groups, whose entire lives are housed within their communities. Their clients' work, marriages, children, health, education, and routines all stem from their cultures. Consequently, without an intimate understanding of these cultures, attorneys have no way of truly knowing their clients.

By dismantling their own cultural biases, attorneys can begin to open themselves up to a culture's unique customs and the value they carry for those who take part in that culture. The choice to place themselves in their clients' cultures and adopt the perspectives of their communities helps attorneys to deepen their respect for these cultures' ways of life and, ultimately, develop a greater desire to investigate these cultures so that they can begin to truly know their clients. According to Rosalia, this kind of immersion is essential for an attorney who wants to adequately represent Oaxacan clients from indigenous backgrounds. Attorneys have a responsibility as representatives and advocates to embrace their clients' ways of life in order to become effective representatives for them.

I closed the interview by asking Rosalia for any personal recommendations she had for training attorneys in the U.S. to represent undocumented Oaxacan migrants. She expressed that U.S. attorneys ought to deepen their understanding of the working lives of Oaxacans.

Particularly, they should learn how much Oaxacans are paid for their work and what motivates them to work. For example, the principal drive for many agricultural workers is to produce enough food to sustain themselves and their families. However, the food they produce is also a reflection of their cultural identity. This is especially true of corn, a basic aliment of Oaxacan meals.

One valuable application of this knowledge for attorneys is the rationale it reveals in cases of forced migration from Oaxaca to the U.S. When the farmworkers' land is no longer viable for producing food or vendors are unable to compete with prices in the U.S. as a result of the North American Free Trade Agreement (NAFTA), these workers are forced to leave their families and find work in the U.S. so that they and their loved ones can earn enough money to survive. When workers' jobs do not pay them enough to fulfill the cost of their children's university education or their parent's medical treatment, they must migrate to the U.S. where the jobs will pay them more so that they can afford to pay for these expenses. These cases are complex and nuanced, often leaving workers with no choice but to migrate. Their conditions cannot promote sustainable living and so workers must find higher wages and more fertile land in the U.S. They leave their families, their homes, and their communities in order to survive in spite of hostile conditions. Consequently, Rosalia argues that greater knowledge of these economic dynamics can help U.S. attorneys recognize the fact that Oaxacan workers often find themselves in situations where they can no longer sustain themselves or their families and, therefore, must migrate in order to survive. Furthermore, if U.S. attorneys truly understood the severity of these economic realities, they could more accurately express the complex nature of their clients' situations as they represent them in legal contexts.

### Discussion

Each of these interviews provided valuable insights to my investigation of linguistic and cultural training of attorneys representing undocumented Oaxacan immigrants in the U.S., enabling me to move beyond the limits of existing scholarship. During our discussions of both Spanish and indigenous languages and their role in the work of attorneys in Oaxaca, Denise and Rosalia both acknowledged the indispensable nature of foreign-language skills for U.S. attorneys representing Oaxacan immigrants. They described the challenges that come with representing clients from indigenous communities who do not speak Spanish as a first language. They both noted that the use of translators or interpreters can result in miscommunication between attorneys and clients and that direct communication promotes greater trust in attorney-client relationships. However, as Denise pointed out, a skilled interpreter can, in certain cases, act as an asset for an attorney, enabling them to communicate more clearly with their clients. Nonetheless, each interview revealed that there are considerable benefits to interacting with a client without the aid of a third party. Therefore, attorneys ought to develop the necessary linguistic proficiency, either in Spanish or in indigenous Oaxacan languages, for engaging in direct forms of communication with their clients and developing greater trust and mutual understanding in their attorney-client relationships.

In both interviews, the importance of living and working in Oaxaca, as well as the advantages it provides to U.S. attorneys representing clients from Oaxaca were discussed at length. The insights of each attorney reveal that cultural immersion in Oaxaca provides attorneys with an intimate understanding of the norms, values, traditions, and customs of their clients' communities. This knowledge enables attorneys to properly interpret their clients' behaviors, decisions, and verbal and nonverbal communication. It can help them to view their

communication strategies through the lens of their clients' culture. It can also help them to recognize and overcome their inner biases and come to value other cultures as they value their own. As Rosalia stated, an intimate understanding of a client's culture shows the attorney who the client is, where they come from, and why they do what they do. Such knowledge promotes trust and confidence in the attorney-client relationship, enabling the attorney to represent the client effectively and competently.

Finally, the advocacy workshop in Oaxaca discussed by both interviewees serves as a useful model for linguistic and cultural training for U.S. attorneys. Though it may not be possible for attorneys to immerse themselves in each of their clients' communities, workshops in the U.S. modeled after those hosted in Oaxaca could offer an immersive cultural experience to attorneys by inviting advocates and community leaders from various regions of Mexico or Central America to speak, thereby teaching them to open themselves up to new cultural perspectives and extrapolate these perspectives to a variety of languages and cultures. With the help of technology, attorneys and advocates from Oaxaca would have the opportunity to lead workshops with attorneys from the U.S. despite vast geographical distances. These trainings could educate U.S. attorneys on pertinent issues facing Oaxacans and the ways in which such knowledge can inform their approaches to attorney-client communication. They could encourage attorneys to investigate their clients' cultural norms and values more deeply. They could also promote greater self-reflection and self-awareness among U.S. attorneys, encouraging them to continually challenge their own cultural prejudices and grow in their intercultural competence.

These two interviews introduced many important perspectives and insights absent in the existing literature. As voices from the United States have traditionally driven the conversation surrounding linguistic and cultural competence training for U.S. attorneys, it is important to note

that many attorneys and advocates working outside of the U.S. have not been called upon to draw upon their experiences working with legal clients in their native cultures in order to better educate attorneys representing clients from these same cultures in the context of the U.S. As experienced legal professionals who practice law with Oaxacan individuals in their home communities, their perspectives are vital to the advancement of training strategies for enhancing the quality of legal service available to Oaxacan immigrants in the U.S. Though these two interviews cannot, in and of themselves, offer a holistic framework for linguistic and cultural training, they can inspire further research that prioritizes the insights of minority voices in the legal profession and attorneys engaging in cross-cultural communication in Mexico and other countries outside of the U.S. Such efforts will not only provide a clearer picture of attorney training, but will also foster a global and multicultural dialogue capable of balancing the perspectives of legal scholars and practicing attorneys from all backgrounds.

### **Conclusion**

Through this investigation, I have expounded upon and substantiated prior scholarship related to linguistic and cultural training for attorneys by applying them to U.S. immigration attorneys and their representation of undocumented Oaxacan immigrants. I had the opportunity to draw upon the perspectives of two experienced attorneys in Oaxaca who are committed to equipping other attorneys with the language skills and cultural competence to represent Oaxacan clients effectively in legal contexts. I was able to reflect upon my own immersion experience in Oaxaca and address many of the cultural biases that have emerged within me during my time abroad. I have come to recognize that stereotypes and prejudices are difficult to recognize and prone to pervade cross-cultural interactions largely undetected. This is true not only of myself, but also of the immigration attorneys serving undocumented Oaxacan immigrants in the U.S. For

this reason, it is crucial that these attorneys are equipped with the necessary tools to engage in self-reflection and to continually dismantle their own inner prejudices as they engage in intercultural communication and immigrant advocacy.

As the legal field becomes increasingly globalized, it is vital that attorneys commit to a thorough investigation of their clients' cultures through immersive experiences and incorporate this knowledge into their interactions with Oaxacan clients. As long as attorneys consistently work to develop these skills, they will continue to grow in their intercultural competence and evolve into adequate legal representatives for Oaxacan immigrants in the U.S. I strongly encourage those committed to designing and implementing linguistic and cultural training for U.S. immigration attorneys to draw upon Oaxacan-led advocacy workshops as a prime example of immersive experiential learning for legal advocates. Similar forms of attorney training would provide opportunities for language learning in the context of immigrant advocacy, open dialogue regarding linguistic and cultural diversity in Oaxaca, discussions on intercultural communication and immigrant representation facilitated by Oaxacan attorneys and advocates, and a greater sense of connection and community across borders.



## References

- Adams, T. (2012). Cultural Competency: A Necessary Skill for the 21st Century Attorney. *Law Raza*, 4(1), 1-22.
- Akhbari, K. (2018). Adequate Legal Representation Laws. Retrieved from <https://www.legalmatch.com/law-library/article/adequate-legal-representation-laws.html>
- Bacon, D. (2014). Globalization and NAFTA caused migration from Mexico. Retrieved from <https://politicalresearch.org/2014/10/11/globalization-and-nafta-caused-migration-from-mexico>
- Blumberg, J. (2014). Sitting by the Well: The Case for Intercultural Competency Training in International Experiential Learning. *University of Baltimore Law Review*, 43(3), 395-434.
- Bryant, S. (2001). The Five Habits: Building Cross-Cultural Competence in Lawyers. *Clinical Law Review*, 8(1), 33-108.
- Budiman, A., Tamir, C., Mora, L., & Noe-Bustamante, L. (2020). Facts on U.S. immigrants, 2018: Statistical portrait of the foreign-born population in the United States. Retrieved from <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants-current-data/>
- Curran, V. G. (1993). Developing and Teaching a Foreign-Language Course for Law Students. *Journal of Legal Education*, 43(4), 598-605.
- Curran, V. G. (2004). The Role of Foreign Languages in Educating Lawyers for Transnational Challenges. *Penn State International Legal Review*, 23(4), 779-783.
- Effective Assistance of Counsel. (n.d.). Retrieved from <https://law.justia.com/constitution/us/amendment-06/15-effective-assistance-of-counsel.h>

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- Falati, S. (2020). The Makings of a Culturally Savvy Lawyer: Novel Approaches for Teaching and Assessing Cross-Cultural Skills in Law School. *Journal of Law & Education*, 49(5), 627-684.
- Farmworker Health FactSheet - Demographics. (2012). Retrieved from [http://www.ncfh.org/uploads/3/8/6/8/38685499/fs-migrant\\_demographics.pdf](http://www.ncfh.org/uploads/3/8/6/8/38685499/fs-migrant_demographics.pdf)
- Garrigues, Lisa. (2013). "Indigenous Farm Workers Are Breaking New Ground in California." Retrieved from <https://indiancountrytoday.com/archive/indigenous-farmworkers-are-breaking-new-ground-in-california>
- Gass, S. M., & Selinker, L. (2008). *Second Language Acquisition: An Introductory Course* (3rd ed.) Routledge.
- Glick, D. (2017). Teaching Spanish to Law School Students: Considerations in Developing a Legal Spanish Course. *Texas Hispanic Journal of Law and Policy*, 23(1), 51-70.
- Huempfer, L. (2020). Designing an intermediate-level introductory legal Spanish course. *Global Business Languages*, 20(1), 86-107.
- Israel, E., & Batalova, J. (2020). Mexican Immigrants in the United States. Retrieved from <https://www.migrationpolicy.org/article/mexican-immigrants-united-states-2019>
- King-Ries, A. (2000). Just What the Doctor Ordered: The Need for Cross-Cultural Education in Law Schools. *Tennessee Journal of Law & Policy*, 5(1), 27-70.
- Kresge, L. (2007). Indigenous Oaxacan Communities in California: An Overview. *California Institute for Rural Studies*, 1-18.

- Kuehl, H. F. (2016) Resources for Becoming Culturally Competent in a Multijurisdictional Practice: G20 Nations and Associated Legal Traditions. *International Journal of Legal Information*, 44(2), 83-115.
- Lamparello, A., & MacLean, C. E. (2015). Experiential Legal Writing: The New Approach to Practicing like a Lawyer. *Journal of the Legal Profession*, 39(2), 135-198.
- Limmer, J. E. H. (2013). An Epistemological Watershed: How Legal Educators Should Use Four Characteristics of Successful Second Language Acquisition Pedagogy to Create Successful Law Students.” *Appalachian Journal of Law*, 13, 39.
- Lynch, M. (2015). Importance of Experiential Learning for Development of Essential Skills in Cross-Cultural and Intercultural Effectiveness. *Journal of Experiential Learning*, 1(1), 129-147.
- Mah, L. (2005). The Legal Profession Faces New Faces: How Lawyers’ Professional Norms Should Change to Serve a Changing American Population. *California Law Review*, vol. 93(6), 1721-72.
- Patel, S. (2014, October 17). Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World. Retrieved from <https://www.uclalawreview.org/pdf/discourse/62-7.pdf>
- “Settlement in California.” (2014). Retrieved from <http://www.indigenousfarmworkers.org/settlementCA.shtml>
- Strong, S. I. (2014) Bilingual Legal Education in the United States: An Idea Whose Time Has Come. *Journal of Legal Education*, 64(2), 354-362.
- Williams, C. C. (2003). Seeking Cultural Competence: What Is It, How Do You Develop It and How Do You Know When You’ve Got It? In W. Shera (Ed.) *Emerging Perspectives on*

*Anti-oppressive Practice* (pp. 265-278). Canadian Scholar's Press.

Wong, A. (2012) A Matter of Competence: Lawyers, Courts, and Failing to Translate Linguistic and Cultural Differences. *Southern California Review of Law and Social Justice*, 21(3), 431-468.