

# Language, Borders and Education: Language Policy and The Making of New Mexico and Arizona

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Schools have long been recognized as sites where specific cultural and linguistic capital is validated. By offering a historical examination of the role language rights played in the formation and induction of Arizona and New Mexico as states in the early 1900s, this paper will illuminate the favoring of specific linguistic capital through the use of national and state policy. Arguments over the position of Spanish, and in turn Spanish speakers, in Arizona and New Mexico as territories ultimately led to their political formation as two separate states. Language of instruction in schools dominated statehood negotiation, and culminated in New Mexico being required to teach only in English as a condition of statehood. These foundational policies have had lasting affects. In New Mexico social policies that are inclusive have dominated, while in Arizona many contemporary social and educational policies are discriminatory to the point of being constitutionally questionable.

## **Language, Borders and Education: Language Policy and The Making of New Mexico and Arizona**

Since the 1970s, social and educational critical theorists have recognized schools as active sites for reproducing social inequality (Levinson & Holland, 1996). Bourdieu (1986) theorizes that schools maintain the dominance of hegemonic groups by validating cultural capital, or the forms of knowledge, tastes and dispositions, deemed favorable by the dominant group in order to maintain their economic advantage. Schools accomplish this social reproduction by passing on these dominant group traits as knowledge taught as objective and universal. Language can be considered an example of this arbitrary knowledge taught as truth. Certainly, whether one refers to that on which we sit as “a chair” or “*la silla*” has nothing to do with intelligence or mastery of universal truth. However, schools in the United States teach that one reference is correct and the other inferior. Choosing an official language of instruction and then penalizing students who lack this linguistic capital is a political move that reflects and produces structures of power and inequality within society (McCarty, 2004).

Policy regarding the status and role of the English language in education have waxed and waned since the country’s inception (McCarty, 2004), and the Southwest region is a prime example of this dispute.<sup>1</sup> Language policy in Arizona and New Mexico makes a fascinating comparison because in spite of their geographic

<sup>1</sup> The language struggles of Native Americans and policy specifically regarding Native Language rights is beyond the scope of this paper. For scholarship in this area, see: McCarty, 2004.

proximity and their shared political history they have vastly differing views on language rights; it can be argued that they have the most differing legislative laws regarding language rights between any two states in the United States (Crawford, 1992; Piatt, 1990). Presently, New Mexico has some of the most inclusive and humane policies regarding language protection, multicultural education, and the rights of immigrants. In contrast, Arizona has an English-only declaration and enactment of contemporary policies that are discriminatory to the point of being constitutionally questionable. In fact, these historically differing views on language rights defined the political border between Arizona and New Mexico, and are entwined in a larger policy agenda that has continued into contemporary times, particularly in regard to linguistic and political rights of Latino Americans and immigrants.

The story of Arizona and New Mexico statehood is one example of how language policy has been used as a form of power to deny, or attempt to deny, certain populations the right to authentically participate in politics and education. In this paper, I will describe the history of the two territories, and how their differing demographics impacted their policies towards language inclusion. Next, I will outline how differing ideologies on language rights led the federal government to divide the New Mexico territory into two territories: New Mexico and Arizona. I will then explicate the protest in the Arizona Territory over the federal government's plan to merge the two territories into one state. I will discuss the conditions limiting language choice, particularly choice in public schools, that the federal government set forth in granting New Mexico statehood, and how New Mexicans were able to amend their constitution to provide limited protection for the rights of Spanish speakers. I will conclude with an analysis of the contemporary manifestations of these foundational policies, looking at the ways linguistic intolerance has continued to intertwine with cultural intolerance, demonstrating why language choice should be protected, not restricted by the government.

### **Contextual History of Arizona and New Mexico**

The area that is now the United States Southwest was under Spanish rule from the late sixteenth century until Mexico gained its independence in 1810 (Gutierrez, 1991; Torrez, 1998). Following a brief period of Mexican ownership, the United States forced the cession of the Texas, New Mexico and Alta California territories at end of the Mexican-American War. In 1850, New Mexico officially became a territory of the United States and included the land that is now Arizona (Torrez, 1998). Understanding the distribution of the Hispanic and Anglo populations at the New Mexico Territory's inception is important in understanding how the power play unfolds between these two demographics and the federal government. When this area was ceded to the United States in 1848, there were roughly 75,000 Spanish settlers, 60,000 of which were residing in what is now New Mexico and a sparse 1,000 residing in Arizona (U.S. Commission on Civil Rights, 1972). The Treaty of Guadalupe Hidalgo (1848) granted U.S. citizenship to these Spanish settlers and protected their civil, political and religious rights (Horton, 2001; Torrez, 1998).<sup>2</sup>

<sup>2</sup> At this point, guaranteeing Spanish rights was seen as safe and even beneficial, as cooperation of the Spanish colonists was necessary for maintaining domination of Native American populations and fighting Confederate troops from Texas who were raiding the area (Torrez, 1998).

Having lived in the area for hundreds of years as Spanish colonists, and having spent only a brief period of time under Mexican governance, these New Mexicans did not identify as Mexican Americans or Latinos. They often continue to resist this identification, and resent being treated as immigrants as their cultural history in the area far surpasses that of Anglos (Horton, 2001). As Anglo Americans began flowing west, eventually reaching a population level equal to Hispanic Americans, the civil, political and religious rights guaranteed by the treaty of Guadalupe Hidalgo were increasingly ignored (Horton, 2001; Torrez, 1998). This began a power struggle between Hispanic American populations residing in what is now New Mexico who wanted these rights protected, and Anglo American populations in what is now Arizona who were denying Spanish speakers the rights to vote, hold office, and participate in schools (U.S. Commission on Civil Rights, 1972). These disputes over language and rights led the U.S. federal government to split the New Mexico Territory in two, thus creating the Arizona Territory (Crawford, 1992).

### **Two Territories, One State?**

In 1906, the federal government proposed a plan of joint statehood, which would reunify the New Mexico Territory and Arizona Territory into one state (U.S. Commission on Civil Rights, 1972). The Arizona Territory vehemently protested this union. The Arizona Territorial Teachers Association was at the forefront of opposing joint statehood, claiming that the union would disrupt the Arizonan school system (Crawford, 1992). At the time Arizona schools instructed only in English, and English was a requirement to serve in local government office (Revised Statutes of Arizona, 1887). New Mexican schools, courts and legislation were bilingual, and when needed, affairs were conducted through interpreters.<sup>3</sup> In New Mexico, speaking English was not a requirement to hold political office or serve on juries, and statutes were published in both languages (U.S. Commission on Civil Rights, 1972). Arizona voiced its fears in combining with New Mexico in the 1906 official "Protest Against Union," particularly with respect to

...the decided racial difference between the people of New Mexico, who are not only different in race and largely in language, but have entirely different customs, laws and ideals and would have but little prospect of successful amalgamation...[and] the objection of the people of Arizona, 95 percent of whom are Americans, to the probability of the control of public affairs by people of a different race, many of whom do not speak the English language, and who outnumber the people of Arizona two to one. (S. Doc. 216, 1906)

This document clarifies many of Arizona's racial and linguistic fears, as well as its doubts over successful cultural cohabitation. Further, the use of the term "American" when describing Arizonans in juxtaposition to New Mexicans clearly indicates that Arizonans did not view residents of New Mexico as Americans worthy of American rights. New Mexico had a higher total population, half of which was Spanish-speaking, compared to only 5 to 20 percent of the Arizona population (U.S. Commission on Civil Rights, 1972). This meant that joint statehood

<sup>3</sup> My source did not address Native languages in this regard, but judging from other sources, I infer that Native Americans were rarely if ever represented in these schools, courts and legislation.

would have granted 66 votes in the constitutional convention to New Mexico and 44 to Arizona (Crawford, 1992), and that Arizona would have to succumb to New Mexico's bilingual and culturally unfamiliar ways. This marks a clear example of the nationally dominant group (Anglo-European) wishing to maintain control over schooling to ensure their continued economic and cultural authority, which they felt was threatened. Arizonans seemed to realize that control over the policy of schools secured control of the local culture. The vote for joint statehood was cast in 1906, and passed in New Mexico, but overwhelmingly lost in Arizona, so the negotiation for statehoods continued (U.S. Commission on Civil Rights, 1972).

### Bargaining for Statehood

The Senate Committee on Territories began considering separate statehood for the two territories, with debates on language and education dominating the discourse (U. S. Commission on Civil Rights, 1972). Members of the committee recognized that if schools were allowed to choose their language of instruction, in many areas they would continue to instruct in Spanish (Act of June 20, 1910). Realizing this, the federal government responded with an enabling act that limited the use of Spanish in an official capacity in *both* proposed states. The first way this act limited the use of Spanish was by declaring that members of state legislation must have mastery of English to the point that they could conduct government affairs without the use of an interpreter (Act of June 20, 1910), ensuring that people who spoke only Spanish would be excluded from holding office (U.S. Commission on Civil Rights, 1972). The second provision in this act proclaimed that a system of public schools must be established, and that these schools would always be conducted in English (Act of June 20, 1910). This was the federal government's way of ensuring that, although multiple cultures existed simultaneously, future acculturation would be a one-way process (U.S. Commission on Civil Rights, 1972).

In spite of this blatant restriction of the rights of people in New Mexico to speak Spanish, New Mexicans were able to amend their constitution to protect language rights in three ways (N.M. Const.). Article V, § 3 specifically dictates that the right to vote, hold office, or sit on juries will never be restricted by the ability or inability to speak read or write English or Spanish. The second provision to the constitution that attempts to secure language rights is Article XIII, § 8. It mandates that the government shall provide training so that teachers may gain proficiency in both English and Spanish to more readily meet the needs of students who speak either language. [i] Section 10 of the same article speaks to the educational rights of children of Spanish descent, ensuring rights and privileges equal to English speaking children in public schools, and explicates that they shall never be educated in separate schools. The Constitution of the State of New Mexico was approved in 1911, and New Mexico became the 47<sup>th</sup> state in the Union. Arizona immediately followed becoming the 48<sup>th</sup> state.

In contrast to the New Mexico constitution, the original draft of the Constitution of the State of Arizona (1912) required that all public schools be taught in English (art. XX, § 7). Additionally, the Arizona constitution mandates that state officers and members of the state legislature must speak English sufficiently enough to "conduct duties of the office without the aid of interpreters" (Ariz. Const, art. XX,

§ 8), which at the time excluded many of the Spanish colonists from holding office. Later that year, the legislature required that every voter must be capable of reading the Constitution of the United States in English (Revised Statutes of Arizona Territory, 1887, Ch. III, § 2879), preventing Spanish speakers from effectively participating in democratic elections.

### **Linguistic and Cultural Protection in New Mexico and Arizona Today**

Although language diversity has changed in both states, attitudes regarding language rights with regard to policy has remained fairly consistent. In 1988 Arizona amended its state constitution, declaring English the official language of the state and explicitly protecting the rights of English speakers, stating, “a person shall not be discriminated against or penalized in any way because the person uses or attempts to use English in public or private communication” (Art. XXVIII, § 3.B.). Speakers of other languages are not granted this lawful protection against discrimination. A year later New Mexico issued the English Plus Resolution, which explicitly protects language rights and was the first declaration of its kind in the country (English Plus Declaration, 1989). The Declaration expresses that the people of New Mexico wish to promote diversity as an important part of American culture, and that “English Plus best serves the national interest since it promotes the concept that all members of society have full access to opportunities to effectively learn English” (§ 2) as well as other languages. Further it explicates that the position of English in the U.S. is secure and needs no legislative protection, and that the preservation of languages and cultures is an important state goal.

Arizona more recently passed one of the nation’s toughest immigration laws, SB 1070 (Arizona Senate Bill 2010, 2010), which is currently under injunction due to its encouragement of racial profiling by law enforcement officers to induce the immigration status of residents, and the law’s mandate that punitive measures be taken against persons not carrying immigration papers or illegally applying for work in the country. Some educators fear that this law is negatively affecting school enrollment, as many undocumented families are leaving the state or are no longer sending their children to school for fear of questioning over immigration status (Arizona Immigration Law, 2011). Arizona also received widespread criticism over H.B. 2281, a statute that outlaws ethnic studies programs in K-12 classrooms. The law was passed in response to an optional Chicano Studies course taught in Tucson, which some feared was promoting ethnic solidarity and anti-American sentiment (Cruz, 2010). The bill bans classes that “are designed primarily for pupils of a particular ethnic group” (Arizona H.B. 2281, 2010) but later goes on to clarify that this excludes courses intended for Native American students, leading critics of the bill to the conclusion that the ban specifically targets Latino populations in Arizona (Cruz, 2010).

Linguistic discrimination also targets teachers in Arizona, as the Department of Education has been removing teachers with heavy accents from classrooms where English Language Learners are present. These teachers are required to take an accent-reduction course before being re-evaluated for classroom reentry (Jordan, 2010). This move has faced criticism from educators and scholars, many of whom claim that exposure to varying speech styles facilitates second language acquisition (University of Arizona Linguistics Department, 2010).

In contrast, New Mexico offers four years of university or trade school tuition to anyone who graduates from a New Mexico high school, regardless of his or her immigration status, and does not require drivers to show proof of citizenship to obtain a drivers license (Jennings, 2010; New Mexico Department of Higher Education, 2011). It is still not a requirement that one speak English to vote or serve on juries in New Mexico. New Mexico's legislature has also made an effort to ensure that all students have the opportunity to become bilingual and biliterate by passing the State Bilingual Multicultural Education Law (2004) and the Bilingual Multicultural Education Regulation (2005). These laws secure funding for all schools in New Mexico to implement bilingual multicultural education programs, where the medium of instruction is both English and a second language, usually Spanish or a Native American language.

### **Analysis – The Importance of Language Protection**

For a country that prides itself on freedom, the United States does little to protect the freedom to choose what language one speaks, and in many cases actively prevents speakers of other languages from authentically participating in society in the language of their choosing (McCarty, 2004). Tabouret-Keller (1997) argues that language is often the commonality that binds individual and social identities together. Language is the means by which one makes sense of self and community, and to deny persons their right to language is to deny them their identity. They further argue that nation states disrupt this union of language and identity in many ways, including: declaring an official language; controlling the language of instruction in schools; and dictating the language used in laws and justice. As this paper illustrates, Arizona has blatantly disrespected this union of language and identity, and used restrictive language policies to deny American citizens the right to authentically participate in government and education. New Mexico has attempted to protect language rights for Spanish speakers (much less so for Native Americans) but did buckle under pressure from the federal government when agreeing to operate schools in English as a condition of statehood (Heath, 1992). Many U.S. governing agencies realize that “schools are among the most dominating discursive sites in which both official and unofficial language policies are produced and legitimated” (McCarty, 2004, p. 72) and have used language dominance to marginalize students throughout its history.

Fortunately, humans are not passive receptors of culture imbued by social institutions such as schools and governments; they are active participants capable of agency within these larger constraints (Levinson and Holland, 1996). One way people express this agency is through creating government policy, and more efforts should be made to create policy to protect language rights. It is important to ask what are the true motivating factors behind English Only policy (Heath, 1992).

In spite of language restrictions, the Spanish language has thrived in the Southwest, and Spanish-speaking populations are growing throughout the United States (U.S. Census Bureau, 2010). Not only were English and Spanish the languages of the original settlers of the two states, but they are also internationally recognized languages. Many benefits would arise from schools and government agencies in Arizona and New Mexico teaching and operating in both languages; these include greater social inclusion for Spanish speaking citizens and residents,

and the development of a multilingual workforce more aptly prepared for today's global economy. Policy regarding language rights in the Southwest should reflect the rights of speakers of all languages in the region. It is time for policy makers in the United States to acknowledge that language is more than just functional; it is deeply embedded in identity and community. To offer no legal protection for language choice opens the door to the tolerance of other forms of cultural and social discrimination.

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### References

- Act of June 20. c. 310, 36 Stat. 559 (1910). Retrieved from [www.childrenslandalliance.com/download\\_state\\_file.php?file\\_id=21](http://www.childrenslandalliance.com/download_state_file.php?file_id=21)
- Arizona Constitution, art. XXVIII. Retrieved from <http://www.azleg.gov/Constitution.asp>
- Arizona House Bill 2281, 49th Cong., 2nd Sess. (2010). Retrieved from <http://www.azleg.gov/legtext/49leg/2r/bills/hb2281s.pdf>
- Arizona Immigration Law (SB 1070). *The New York Times*. Retrieved from <http://topics.nytimes.com/top/reference/timestopics/subjects/i/immigration-and-emigration/arizona-immigration-law-sb-1070/index.html>
- Arizona Senate Bill 1070. (2010). Retrieved from <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>
- Bourdieu, P. (1986). The forms of capital. In J. G. Richardson (Ed.), *Handbook of theory and research for the sociology of education* (pp. 241-258). Westport, CT: Greenwood Publishing.
- Crawford, J. (1992). *Language loyalties: A source book on the official English controversy*. Chicago, IL: University of Chicago Press.
- Cruz, N.S. (May 12, 2010). Arizona bill targeting ethnic studies signed into law. *Los Angeles Times*. Retrieved from <http://articles.latimes.com/2010/may/12/nation/la-na-ethnic-studies-20100512>
- English Plus Declaration in New Mexico. (1989). Retrieved from <http://www.ped.state.nm.us/BilingualMulticultural/dl09/New%20Mexico%20--%20English%20Plus%20Resolution.pdf>
- Gutierrez, R. (1991). *When Jesus came, the corn mothers went away: Marriage, sexuality and power in New Mexico, 1500-1846*. Palo Alto, CA: Stanford University Press.
- Heath, S.B. (1992). Why no official tongue? In J. Crawford (Ed), *Language loyalties:*

- A source book on the official English controversy* (pp. 20-31). Chicago, IL: University of Chicago Press.
- Horton, S. (2001). Where is the 'Mexican' in 'New Mexican'? Enacting History, Enacting Dominance in the Santa Fe Fiesta. *The Public Historian*, 24(4), 41-54.
- Jennings, T. (May 19, 2010). Economics, demographics and political culture explain divide between NM and AZ immigration policies. *The New Mexico Independent*. Retrieved from <http://newmexicoindependent.com>
- Jordan, M. (April 30, 2010). Arizona grades teachers on fluency: State pushes school districts to reassign instructors with heavy accents or other shortcomings in their English. *The Wall Street Journal*. Retrieved from: [http://online.wsj.com/article/SB10001424052748703572504575213883276427528.html?mod=WSJ\\_WSJ\\_US\\_News\\_5](http://online.wsj.com/article/SB10001424052748703572504575213883276427528.html?mod=WSJ_WSJ_US_News_5)
- Levinson, B. & Holland, D. (1996). The cultural production of the educated person: An introduction. In B. Levinson, D. Foley, & D. Holland (Eds.), *The cultural production of the educated person* (pp. 1-56). Albany, NY: SUNY Albany Press.
- McCarty, T. L. (2004). Dangerous difference: A critical-historical analysis of language education policy in the United States. In J. Tollefson & A. B. M. Tsui (Eds.), *Medium of instruction policies. Which agenda? Whose agenda?* (pp. 71-96). Mahwah, NJ: Lawrence Erlbaum.
- New Mexico Bilingual Multicultural Education Law. Article 23. (1973, revised 2004) Retrieved from <http://www.ped.state.nm.us/BilingualMulticultural/dl08/Article23-BilingualEducationLaw.pdf>
- New Mexico Bilingual Multicultural Education Regulation (1998, revised 2002 and 2005) Retrieved from <http://www.ped.state.nm.us/BilingualMulticultural/dl09/fullPackageBilingualTAM.pdf>
- New Mexico Constitution, art. V and XIII. Retrieved from <http://www.sos.state.nm.us/pdf/2007nmconst.pdf>.
- New Mexico Department of Higher Education (n.d.) *Legislative lottery scholarship*. Retrieved from <http://www.hed.state.nm.us/Lottery.aspx>
- New Mexico Public Education Department. (2010). *Bilingual and multicultural education technical assistance manual*. Retrieved from [http://www.ped.state.nm.us/BilingualMulticultural/links\\_6.html](http://www.ped.state.nm.us/BilingualMulticultural/links_6.html)
- Piatt, B. (1990). *Only English?: Law and language policy in the United States* (1st ed.). Albuquerque: University of New Mexico Press.
- Revised Statutes of Arizona Territory, Ch. 10, § 80. (1887). Retrieved from [http://books.google.com/books?id=LiNEAAAAYAAJ&printsec=frontcover&source=gbs\\_ge\\_summary\\_r&cad=0#v=onepage&q&f=false](http://books.google.com/books?id=LiNEAAAAYAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false)
- S. Doc. 216, 59th Cong. (1906). Retrieved from [http://proxy.library.upenn.edu:2121/congcomp/attachment/a.pdf?\\_m=f796b824d346824457b9a61ea16dabf5&wchp=dGLzVzS-zSkSA&\\_md5=c0f51e42f0c08c519d4a4d2dc1e6944a&ie=a.pdf](http://proxy.library.upenn.edu:2121/congcomp/attachment/a.pdf?_m=f796b824d346824457b9a61ea16dabf5&wchp=dGLzVzS-zSkSA&_md5=c0f51e42f0c08c519d4a4d2dc1e6944a&ie=a.pdf) or <http://www.library.upenn.edu/> or <http://www.archives.gov/legislative/research/>
- Statehood for New Mexico and Arizona: Hearing before the Committee on the Territories (Vol. 45 at 109), 61st Cong. (1910). Retrieved from [http://proxy.library.upenn.edu:2121/congcomp/attachment/a.pdf?\\_m=a865601ed7cf60706b8b0745f5d7e5a4&wchp=dGLbVzV-zSkSA&\\_md5=f8451b368b3e](http://proxy.library.upenn.edu:2121/congcomp/attachment/a.pdf?_m=a865601ed7cf60706b8b0745f5d7e5a4&wchp=dGLbVzV-zSkSA&_md5=f8451b368b3e)

e237b57818801a9ea964&ie=a.pdf or <http://www.library.upenn.edu/> or <http://www.archives.gov/legislative/research/>

- Tabouret-Keller, A. (1997). Language and identity. In F. Coulman (Ed.), *The handbook of sociolinguistics* (pp. 315-326). Oxford, UK: Basil Blackwell.
- Torrez, Robert J. (1998). A cuarto centennial history of New Mexico. *The New Mexico blue book*. Santa Fe, NM: Office of the New Mexico Secretary of State.
- University of Arizona Linguistics Department (2010). *Teachers' English fluency initiative in Arizona*. Retrieved November 1, 2011 from [http://www.u.arizona.edu/~hammond/ling\\_statement\\_final.pdf](http://www.u.arizona.edu/~hammond/ling_statement_final.pdf)
- U.S. Commission on Civil Rights. (1972). *The excluded student: Educational practices affecting Mexican Americans in the Southwest*. Washington, DC: U.S. Government Printing Office.
- US Census Bureau. (2010). *Language Use in the United States: 2007*. Retrieved from <http://www.census.gov/hhes/socdemo/language/data/acs/ACS-12.pdf>

