

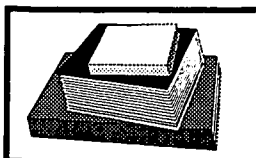
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Books:

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BOOK REVIEW

Diccionario Jurídico Según La Jurisprudencia del Tribunal Supremo de Puerto Rico, Volúmenes IA & IIA

Reviewed by: James Leonard, Professor of Law and Law Library Director,
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Mariano Morales' *Diccionario Jurídico Según La Jurisprudencia del Tribunal Supremo de Puerto Rico* was published in 1977 by the *Colegio de Abogados de Puerto Rico*. The author managed to compile, in two printed volumes, quotations from the decisions of the Supreme Court of Puerto Rico that defined the principal terms of Puerto Rican jurisprudence.¹ Much of the work was done by searching the first 101 volumes of the *Decisiones de Puerto Rico*, or D.P.R., page by page for passages suitable to define or explain legal terms.² The magnitude of this task should be apparent even to a generation that views personal computers and on-line services as a birth right. Fortunately the author has been willing to take up this burden again. The result is two additional volumes, published now by the University of Cincinnati College of Law, which make the *Diccionario Jurídico* current through volume 122 of the D.P.R.

This paper reviews volumes IA and IIA of the Morales *Diccionario*. In the process of writing the review, however, it quickly became apparent that the new volumes could not be assessed apart from the whole, at least in any meaningful way. Hence my comments are directed both to the original 1977 work as well as the 1994 supplemental volumes.

Morales has chosen to title this work as a *Diccionario Jurídico*, that is, legal dictionary. The author's choice of words, however, may understate the scope of his undertaking to the reader from the common law world. Morales' work is not a dictionary as we normally think of one: a list of words followed by brief information about forms, meanings, pronunciation, etymology, idiomatic uses, etc.³ Thus it is unlike Black's Law Dictionary or Ignacio Rivera García's *Diccionario de Terminos Jurídicos* which provide relatively short definitions of legal terms.

Instead, the Morales work falls under the rubric of *diccionario jurisprudencial*. Such works take their definitions directly and verbatim from the opinions of courts or tri-

1. The term "jurisprudence" in this context does not refer to judicial philosophy; rather, I use the term in the civil law sense of the collective written statements and opinions of courts which interpret the positive law. See Angelo Piero Serini, *The Code and the Case Law*, in *The Code Napoleon and the Common-Law World* 65-67 (Bernard Schwartz ed. 1956). Given the traditional civilian unwillingness to recognize judicial pronouncements as a source of law, see *id.*, "case law" would be a misleading translation of *jurisprudencia*. For a highly readable explanation of the sources of civil law, see John Henry Merryman, *The Civil Law Tradition* 20-26 (1969).
2. 1 Mariano Morales Lebrón, *Diccionario Jurídico Según La Jurisprudencia del Tribunal Supremo de Puerto Rico — Palabras, Frases y Doctrinas* ix (1977).
3. See Webster's Third New International Dictionary of the English Language Unabridged 627 (1986).

bunals.⁴ In the present case, the definitions are extracted word for word from the opinions of the supreme Court of Puerto Rico. As a general matter, the *diccionario jurisprudencial* conveys definitions with an authority commensurate with that of the court or judge quoted.⁵ Perhaps the closest approximation in the common law world is West Publishing Company's *Words and Phrases*. The latter does provide definitions of terms found in American cases. However, its entries are brief, paraphrased by the publisher's editorial staff and hence lack the authoritativeness of entries found in a *diccionario jurisprudencial*.

With the release of volumes IA and IIA, Morales' *Diccionario* is now current through volume 122 of the *Decisiones del Tribunal Supremo de Puerto Rico*. Coverage under the 1977 edition ended with volume 101. In addition, volumes IA and IIA contain definitions of terms from the first 101 volumes that had been omitted largely because they appeared in dissenting opinions.⁶

Arrangement within the new volumes parallels the old and is quite effective. Terms are arranged, as one would expect, in alphabetical order. Each term is listed in bold face followed by an explanatory quote or extract from an opinion of the Supreme Court of Puerto Rico. A citation to the *Decisiones del Tribunal Supremo de Puerto Rico* set off in a separate trailer paragraph. That cite consists of volume and page numbers and a parenthetical date. The author of the opinion is specified in a separate parenthetical. In the event of multiple quotations for a single term, the author presents the material in chronological order. There are a fair number of cross references within the text to assist the reader.

The text of the official *Decisiones del Tribunal Supremo de Puerto Rico* marks the limit as well as the scope of the work. As with the 1977 edition, Morales has refrained from editing or altering the quoted passages. Certain footnotes from the original are also carried over verbatim as footnotes here. One editorial enhancement by the author is an occasional footnote that clarifies a judicial reference to a law, code or procedural rule by a precise reference to the *Leyes de Puerto Rico Anotadas*. Both original and editorial footnotes are mixed in a single sequence within each letter of the alphabet. For example, the last footnote under "A" is 61, under "C" is 63, under "CH" is 1, and so forth. Sequential numbering is a change from the 1977 volumes, which simply used one or more asterisks per page. No reason is given for the change (probably too minor to warrant mention) but it will undoubtedly facilitate citation.

Although Morales' *Diccionario* is not a dictionary in the common sense of the word, at one level it may be used like any other legal dictionary. Some of the entries are short and allow the reader to get quick definitions of legal terms commonly used in the Puerto Rican legal system (although there are faster ways to do so).⁷ Likewise the reader who has confidence in his legal vocabulary can use this work as a quick index to the decisions of the Supreme Court of Puerto Rico and to any other sources cited in the quoted passages. Yet as valuable as these functions may be, they are not the most important contribution.

4. Carlos I. Gorrín Peralta, *Fuentes y Proceso de Investigación Jurídica* §-6.1.1 (1991).

5. *Id.*

6. 1A Mariano Morales Lebrón, *Diccionario Jurídico Según La Jurisprudencia del Tribunal Supremo de Puerto Rico — Palabras, Frases y Doctrinas* ii (1994).

7. E.g. Ignacio Rivera García, *Diccionario de Términos Jurídicos* (1976) (brief definitions); Henry S. Dahl, *Dahl's Law Dictionary / Diccionario Jurídico* (1992) (English/Spanish-Spanish/English dictionary with brief definitions).

Far from being just a compendium of definitions, Morales' work at times approximates a legal encyclopedia. The typical entry is a page long, although there are many shorter and longer "definitions." A reader can use the longer entries much as he would use an encyclopedia article: as an introduction to the unfamiliar area of law, for a statement of the principal rules and doctrines, and for references to primary and secondary sources. For example, entries for *domicilio* (domicile), *prisión por deuda* (debtor's prison), *divorcio* and *institución del divorcio* (divorce) and *doctrina de la responsabilidad civil del estado* (sovereign immunity) are extensive and give the reader a good grounding in these concepts.

It is difficult to overstate the utility of this work to anyone involved in Puerto Rican legal research. Like most civil law systems in the new world, Puerto Rico has no legal encyclopedia.⁸ The lack of a legal encyclopedia in most instances is not fatal. Latin American legal researchers have often relied on the Spanish legal encyclopedias such as the *Enciclopedia Jurídica Española* and the *Nueva Enciclopedia Jurídica*. In Puerto Rico, however, the Spanish encyclopedias tend to be useful only in matters of private law (*derecho privado*) that are governed by rules from the Spanish civil law tradition. Even in the realm of private law the influence of the common law is undeniable and makes reliance on civil law encyclopedias difficult.⁹ Owing to Puerto Rico's affiliation with the United States, public law is governed in large measure by American legal principles.¹⁰ Encyclopedias from civil law countries are of little use in that branch of the law. For opposite reasons, American legal encyclopedias such as *American Jurisprudence*, 2d and *Corpus Juris Secundum* may be useful for public but not private law. Hence while not an encyclopedia, Morales' *Diccionario* does provide encyclopedic treatment of many legal topics which would not otherwise be available in a convenient form.

Researchers may of course turn to treatises and law reviews for basic instruction in an unfamiliar field. Several are available for Puerto Rican law.¹¹ These sources, however, serve different purposes than encyclopedias. Authors of treatises and journal articles often pursue topics from a historical perspective, attempt to harmonize apparent contradictions in doctrine, criticize the effects of the law or suggest improvements. Such in-depth treatment is not the best way to get a foothold on unfamiliar ground. Another factor is sheer convenience. Even if treatises and law reviews collectively provide basic, explanatory information about legal concepts, the information is scattered. One must use a variety of catalogs and indexing tools to utilize this information. A legal encyclopedia is simply an easier way to proceed. Absent an encyclopedia, a reference tool such as Morales' *Diccionario* is a better option than going to the treatises and law reviews.

Who should acquire the new volumes of the *Diccionario*? Language is a critical factor. Morales' *Diccionario* is useful only if the reader has a reading knowledge of Spanish. Naturally individual practitioners, scholars, librarians and others who work directly with

8. Carlos I. Gorrín Peralta, *supra* note 4, §6.1.1; Jorge Carro, *The Use of Legal Encyclopedias as an Alternate in Building up Collections of Spanish and Latin American Legal Materials*, 6 Int'l. J. of L. Libr. 285, 288 (1978).

9. The fact of common law influence is well illustrated by the inclusion in Morales' *Diccionario* of such entries as "leasing," "fireman's rule" and "asesinato estatutario (felony murder rule)." For a perceptive but angry objection to the americanization of Puerto Rican law, see José Trias Monge, *La crisis del derecho en Puerto Rico*, Rev. Jur. U.P.R. 1 (1980).

10. Carlos I. Gorrín Peralta, *supra* note 4, §-6.2.1.

11. See *id.* §-6.3.4 (list of useful treatises), §-7.3 (law reviews).

Puerto Rican law will benefit greatly from the new volumes of the *Diccionario*. Indeed it is likely that these persons already use the 1977 edition. Likewise, major research facilities that aim to keep comprehensive collections of materials from other jurisdictions should feel no hesitation before placing their orders.

Perhaps the most interest question involves the library with occasional need¹² for Puerto Rican legal materials. I agree with Professor Carro's observation that legal encyclopedias offer an easy and affordable alternative for libraries that do not wish to develop more extensive collections of Latin American materials.¹³ The same reasoning should also apply to dictionaries with encyclopedic qualities. In the case of Puerto Rico, Morales' *Diccionario* offers a reasonable alternative to libraries or researchers who want some coverage of Puerto Rico¹⁴ but do not want to invest in a more extensive collection.¹⁵ Until Westlaw, Lexis or some other purveyor of electronic information offers an on-line version of the *Decisiones de Puerto Rico*, it may be the only reasonable alternative.

12. The need for Puerto Rican materials arises in United States Courts, federal or state, when choice of law rules may require the application of Puerto Rican law. See, e.g., *Caribbean Wholesales & Service Corp. v. US JVC Corp.*, 855 F.Supp. 627 (S.D.N.Y. 1994) (application of Puerto Rican law to distribution agreement dispute); *Bella Isla Construction Corp. v. Trust Mortgage Corp.*, 347 So.2d 649 (Fla. Ct. App. 1977) (issue of whether Florida or Puerto Rico usury laws applied to loan made in Puerto Rico).

13. Carro, *supra* note 8, at 287-89.

14. Reports of federal cases from the District of Puerto Rico are of course available in the *Federal Supplement* and, on appeal to the First Circuit, in the *Federal Reporter*.

15. On-line research services have eased, though hardly eliminated, the difficulty and expense of acquiring some Puerto Rican legal materials. Both WESTLAW and LEXIS have on-line versions of the *Laws of Puerto Rico Annotated*, the official English language version of the Code, as well as advanced legislative services. Likewise, one can find English language items from the *Revista Jurídica de la Universidad Interamericana de Puerto Rico* on WESTLAW beginning with volume 16 (1982).

Getting access to the opinions of the Puerto Rican Supreme Court may still be prohibitively expensive for libraries with limited resources. Since neither WESTLAW nor LEXIS carries the *Decisiones de Puerto Rico*, some arrangement must be made to acquire printed copies of the text. Indexing is also a concern. Annotations from the on-line or paper versions of the *Laws of Puerto Rico Annotated* provide a measure of subject access to the cases. Yet, annotated codes are not substitutes for digests. Detailed access is available through the *Digesto de Puerto Rico* from Equity Publishing Company; but, libraries of modest means are unlikely to purchase the latter.

BOOKS RECEIVED

NAFTA and Beyond: A New Framework for Doing Business in the Americas

Edited by: Joseph J. Norton and Thomas L. Bloodworth;
Editorial Coordinator, Terry K. Pennington.

Published in 1995 by Martinus Nijhoff Publishers, sold and distributed in the United States and Canada by Kluwer Academic Publishers, 101 Philip Drive, Norwell, MA 02061.

This book, comprised of thirteen chapters, provides a detailed analysis of the North American Free Trade Agreement, identifies particular innovations in the NAFTA rules and assesses their significance for trade and investment in the North America. It is aimed at international business lawyers, academics, accountants, and U.S. and foreign government officials. The focus is on the Americas (and not just Mexico) and includes overseas traders and investors.

The North American Free Trade Agreement: A New Frontier in International Trade and Investment in the Americas

Edited by: Judith H. Bello, Alan F. Holmer and Joseph J. Norton.

Published in 1994 by The Section of International Law & Practice, The American Bar Association and *The International Lawyer*.

This book, comprised of nineteen chapters, provides scrutiny and analysis of key aspects of the North American Free Trade Agreement and the U.S. legislation that implements it into domestic law. It is intended to provide a contemporaneous but thoughtful insight into major features of the Agreement, with special attention to those aspects likely to be of greatest significance in the long term.
