

7-1-2006

Mexican Civil Code Annotated - Bilingual Edition By
Jorge A. Vargas

Frank Christian Olah

Follow this and additional works at: <http://repository.law.miami.edu/umialr>

Recommended Citation

Frank Christian Olah, *Mexican Civil Code Annotated - Bilingual Edition* By Jorge A. Vargas, 37 U. Miami Inter-Am. L. Rev. 597 (2015)
Available at: <http://repository.law.miami.edu/umialr/vol37/iss3/6>

This Book Review is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Inter-American Law Review by an authorized administrator of Institutional Repository. For more information, please contact library@law.miami.edu.

BOOK REVIEWS

MEXICAN CIVIL CODE ANNOTATED - BILINGUAL EDITION

By Jorge A. Vargas*

Thomson/West, 2005. 1,190 pp.

*Reviewed by Frank Christian Olah***

I.	INTRODUCTION	597
II.	ABOUT THE AUTHOR.....	598
III.	THE MEXICAN CIVIL CODE'S PLACE IN THE UNITED STATES	599
IV.	THE BOOK'S FEATURES	602
V.	A FEW DIFFICULTIES	606
VI.	CONCLUSION	610

I. INTRODUCTION

With *The Mexican Civil Code Annotated*, Professor Jorge A. Vargas has assembled a reference book that endeavors to be far more than a mere English translation. For those of us north of the Rio Grande, schooled in the common law and accustomed to its peculiar fascination with case law, this book is of considerable practical import. It grounds the novice with a basic understanding of Mexico's legal system and the civil code's place within it. But beyond that, and most notably, Prof. Vargas has appended English translations of binding and persuasive decisions (*jurisprudencia* and *tesis sobresalientes* respectively) of Mexico's highest courts to pertinent articles of the code. While this is unexpected considering Mexico is a civil law country, it is immensely useful for those in cross-border practice. In fact, this is the first English translation of Mexico's Federal Civil Code to provide such citations to Mexican case law.¹

The book, of course, has several other useful features. Its most convenient aspect is the side-by-side arrangement of the English translation of the code with the original Spanish version.

* Professor of Law, University of San Diego Law School.

** Frank Christian Olah received his J.D. from the University of Miami School of Law in 2006.

1. JORGE A. VARGAS, *MEXICAN CIVIL CODE ANNOTATED XIII* (2005).

To get the reader up to speed, the book also thoroughly describes the history and relevance of Mexico's Civil Code. Moreover, it has extensive bibliographies of both Mexican and U.S. articles and books pertaining to every subject matter covered by the code, thus making it a superb starting point for continued research.

But it is, after all, the inclusion of judicial holdings that sets Prof. Vargas' book apart. And while this feature is the book's greatest asset, it is somewhat unsatisfactorily executed. Any American practitioner or legal researcher picking up this book will of course be appreciative of Prof. Vargas' effort to provide entrée to such judicial thinking. Nevertheless, the confusing organization, dearth of explanatory notes and the occasional, lackadaisical translation of many judicial holdings result in disappointment and sometimes incomprehension for the reader.

Regardless, the book is a terrific point of entry for the American legal researcher. It is hoped that for future editions, Prof. Vargas will make the necessary and reasonably straightforward revisions. Ultimately, the *Mexican Civil Code Annotated* should prove to be a tabbed, torn and dog-eared favorite.

II. ABOUT THE AUTHOR

The monolingual legal researcher who braves the anonymous cyber-world of legal translations is often left to wonder whether the unseen internet author can be trusted. As is often the case, there exists space for discretion between the original Spanish text and the English translation. That discretion can mean the difference between legal insight and gibberish. With some exceptions in the awkward translations of judicial holdings, which will be discussed later, based upon his outstanding academic career and prolific contributions to American academia, Prof. Vargas' translation is as reliable as his reputation suggests.

Prof. Vargas has dedicated much of his career to making Mexican law accessible for jurists in the United States.² He studied law both at the National Autonomous University of Mexico and at Yale Law School.³ In 1983 he began teaching international and comparative law at the University of San Diego School of Law where he founded the Mexico-United States Law Institute.⁴ He has been a Guest Lecturer on Mexican Law at New York Univer-

2. *See id.* at IV-VII.

3. *Id.* at V.

4. *Id.*

sity School of Law as well as a Visiting Professor at Stanford Law School.⁵ Furthermore, he has worked as a fellow at the United Nations Headquarters, the Woodrow Wilson International Center for Scholars at the Smithsonian Institution, and at the Center for U.S.-Mexico Studies at the University of California San Diego.⁶ In Mexico, Prof. Vargas served as a legal advisor to several of the country's federal agencies, including the Secretariat of Foreign Affairs.⁷ His past work with the Mexican government, significant international teaching, and private practice experience grant a quasi-*imprimatur* to his translation of the civil code.⁸

Prof. Vargas has also penned fifty law review articles and over a dozen books on Mexican law. These include two works that are essential for the cross-border lawyer's shelves: *The Mexican Legal Dictionary and Desk Reference*⁹ and the recently completed four volume *Mexican Law: A Treatise for Legal Practitioners and International Investors*.¹⁰ These works, along with Stephen Zamora's *Mexican Law*¹¹ and a number of titles by Julio Romañach, Jr.,¹² are indispensable to the Spanish-impaired attorney.

III. THE MEXICAN CIVIL CODE'S PLACE IN THE UNITED STATES

In his translation of the Mexican Civil Code, Prof. Vargas presents more than just a new face on an old law. Technically, this is a new law. In 2000, Mexico enacted this Federal Civil Code in recognition of Mexico City's political independence.¹³ The new code nearly replicated the 1928 Civil Code, which had applied both locally to the federal district of Mexico City and, in federal matters, to the entire country.¹⁴ The 1928 Civil Code still applies

5. *Id.*

6. *Id.*

7. *Id.*

8. *See id.*

9. JORGE A. VARGAS, *MEXICAN LEGAL DICTIONARY AND DESK REFERENCE* (2003).

10. JORGE A. VARGAS, *MEXICAN LAW: A TREATISE FOR LEGAL PRACTITIONERS AND INTERNATIONAL INVESTORS* (1998).

11. STEPHEN ZAMORA ET AL., *MEXICAN LAW* (2004).

12. Works by this author include: JULIO ROMAÑACH, JR., *FEDERAL CIVIL CODE OF MEXICO* (2003); JULIO ROMAÑACH, JR., *COMMERCIAL CODE OF MEXICO: SELECTED SUBSTANTIVE PROVISIONS* (2003); JULIO ROMAÑACH, JR., *MEXICAN LAW OF SALES: A PRIMER* (1997); JULIO ROMAÑACH, JR., *DICTIONARY OF LEGAL TERMS: SPANISH-ENGLISH, ENGLISH-SPANISH* (1992).

13. VARGAS, *supra* note 1, at XXXIX.

14. *See id.* at XI, XXXIX.

to Mexico City, but now it is the Federal Civil Code that applies particularly to federal matters.¹⁵ Mexico's thirty-one states had previously adopted the language of the 1928 code for their own civil codes.¹⁶ Consequently, "the legal language of the current Civil Code of 1928 constitutes today the *ius commune* in civil law matters throughout the entire country."¹⁷ Prof. Vargas's book presents the most recent language of the Federal Civil Code, including all of its amendments as of July 31, 2004.

The new Federal Civil Code is thus significant for two reasons. First, there is now a specifically delineated federal law, with its concomitant jurisprudence, that may be applied in international actions abroad if such actions pertain to federal matters. Moreover, the new federal code will surely be the standard the Mexican states follow as they amend their civil codes,¹⁸ as the 1928 Civil Code was in the past. Accordingly, cross-border litigators in the United States would do well to familiarize themselves with the Federal Civil Code as it is an excellent means to become acquainted with Mexico's civil codes in general.

Understanding the civil code is of increasing importance as the implementation of Mexican law in U.S. courtrooms frequently occurs. In California, for instance, out of 226 cases decided by that state's courts involving foreign law from 2003 to 2005, 100 were governed by Mexican law.¹⁹ Of course, American courts in states that border Mexico will often confront the issue of whether to apply Mexican law in choice of law cases.²⁰ Litigators will some-

15. See *id.* at XXXIX.

16. *Id.* at 11.

17. *Id.*

18. Jorge A. Vargas, *An Introductory Lesson to Mexican Law: From Constitutions and Codes to Legal Culture and NAFTA*, 41 SAN DIEGO L. REV. 1337, 1349 (2004).

19. Jorge A. Vargas, Professor of Law, University of San Diego, Speech presented at the 2005 Statewide Judicial Branch Conference (Sept. 8, 2005), in Jorge A. Vargas, *The Emerging Presence of Mexican Law in California Courts*, 7 SAN DIEGO INT'L L.J. 215, 218 (2005) [hereinafter *Emerging Presence of Mexican Law*]. See also VARGAS, *supra* note 9, at 705-712 (listing cases decided by U.S. courts from 1995-2002 involving Mexican law).

20. See, e.g., Carlos R. Soltero & Amy Clark-Meachum, *The Common Law of Mexican Law in Texas Courts*, 26 HOUS. J. INT'L L. 119, 121 (2003). See also 2 VARGAS, *supra* note 10, at 241-74 (explaining conflicts of laws in Mexico); ZAMORA ET AL., *supra* note 11, at 676-699 (explaining Mexico's choice of law principles and rules); Jorge A. Vargas, *Conflict of Laws in Mexico: The New Rules Introduced by the 1988 Amendments*, 28 INT'L LAW. 659 (1994); Jorge A. Vargas, *Enforcement of Judgments in Mexico: The 1988 Rules of the Federal Code of Civil Procedure*, 14 NW. J. INT'L L. & BUS. 376 (1994); Jorge A. Vargas, *Enforcement of Judgments and Arbitral Awards in Mexico*, 5 U.S.-MEX. L.J. 137 (1997).

times want to argue for application of Mexican law.²¹ For instance, in tort litigation, defendants would no doubt prefer to avoid the heavy damages available under U.S. law in favor of Mexico's restrictive policy.²² In the words of one practitioner, "the evolution of the global economy and the economic integration of North America make Mexican legal issues increasingly more likely to arise in U.S. courts"²³

Two major developments in the 1990s transformed Mexican law from a jurisprudential backwater into "the most prominent foreign law area" in U.S. courts.²⁴ First, the North American Free Trade Agreement (NAFTA) removed trade barriers, modernized the Mexican economy and infused progressive ideals into Mexico's more traditional value system.²⁵ Second, Mexico's Foreign Investment Act of 1993 "completely changed the country's philosophy in the areas of business, trade, and investment. . . . and opened avenues for a more efficient and expeditious flow of foreign businesses and investors to Mexico."²⁶ These laws have increased enormously the cross-border exchange of persons and property, and their accompanying legal issues.

Perhaps a more significant cause of the frequent importation of Mexican law into the U.S. is what Prof. Vargas describes as "the triad of intertwined factors" consisting of geography, people and wealth.²⁷ First, Mexico's common border with the United States is one of its "most valuable and strategic assets," and links its developing democracy with a world power.²⁸ Second, the fortunes of many Americans and Mexicans are inextricably intertwined

21. See, e.g., *Victor v. Sperry*, 329 P.2d 728 (Cal. Dist. Ct. App. 1958) (involving Articles 1910 and 1913 of the 1928 Civil Code in a dispute over damages where a California resident was injured in a car accident in Mexico).

22. See Soltero & Clark-Meachum, *supra* note 20, at 143. See also 2 VARGAS, *supra* note 10, at 209-40 (explaining tort law in Mexico); Jorge A. Vargas, *Moral Damages Under the Civil Law of Mexico: Are These Damages Equivalent to U.S. Punitive Damages?*, 35 U. MIAMI INTER-AM. L. REV. 183 (2004) (explaining damages under Mexican tort law).

23. Soltero & Clark-Meachum, *supra* note 20, at 122.

24. *Emerging Presence of Mexican Law*, *supra* note 19, at 218.

25. See John M. Vernon, *Mexico's Accession to the GATT: A Catalyst at Odds with the Outcome?*, 24 ST. MARY'S L.J. 717, 717-19 (1993).

26. Vargas, *supra* note 18, at 1339.

27. *Id.* at 1339-40.

28. *Id.* at 1339. See generally Jorge A. Vargas, *Is the International Boundary Between the United States and Mexico Wrongly Demarcated? An Academic Inquiry into Certain Diplomatic, Legal, and Technical Considerations Regarding the Boundary in the San Diego-Tijuana Region*, 30 CAL. W. INT'L L.J. 215 (2000); Jorge A. Vargas, *U.S. Border Patrol Abuses, Undocumented Mexican Workers, and International Human Rights*, 2 SAN DIEGO INT'L L.J. 1 (2001).

thanks to immigration and tourism. In 2004, Mexicans accounted for 67% of the Hispanic population in the United States, its largest ethnic minority.²⁹ As for Americans, over thirteen million visit Mexico every year and thousands choose to retire there.³⁰ For anyone who has passed through the crowded border between San Diego and Tijuana, the steady intermingling of persons is profoundly apparent. Third, between January and November of 2005, Mexico ranked second in terms of total trade in goods with the United States.³¹ This consisted of \$265.6 billion in goods imported and exported, making up 11.3% of the United State's total trade in goods.³²

A great number of the issues that arise in this cross-border exchange of persons and property fall within the ambit of Mexico's civil code, for instance, marriages and divorces.³³ "In Mexico, the Civil Code is at the center of the multiplicity of legal acts and interactions"³⁴ Any U.S. attorney involved in cross-border litigation or some form of alternative dispute resolution should retain at least a passing familiarity with the civil code's provisions, especially pertaining to jurisdiction and damages.

IV. THE BOOK'S FEATURES

Researching Mexican law can be a perilous escapade for the average common law practitioner. In general, a researcher seeks three things: authority, accuracy and accessibility.³⁵ This goes doubly so when looking for a reliable English translation. Unfortunately, the Mexican government's own website provides only the original Spanish versions of legislation.³⁶ And while other websites abound with partial English translations, knowing which ones to trust is often an exercise in blind faith. A couple of years

29. Vargas, *supra* note 18, at 1340. See generally Jorge A. Vargas, *Dual Nationality for Mexicans*, 35 SAN DIEGO L. REV. 823 (1998); Jorge A. Vargas, *Dual Nationality for Mexicans? A Comparative Legal Analysis of the Dual Nationality Proposal and its Eventual Political and Socio-Economic Implications*, 18 CHICANO-LATINO L. REV. 1 (1996).

30. Vargas, *supra* note 18, at 1340.

31. U.S. CENSUS BUREAU, FOREIGN TRADE STATISTICS, (2005), <http://www.census.gov/foreign-trade/statistics/highlights/top/top0511.html>.

32. *Id.*

33. See Jorge A. Vargas, *Family Law in Mexico: A Detailed Look into Marriage and Divorce*, 9 SW. J.L. & TRADE AM. 5 (2002).

34. VARGAS, *supra* note 1, at XXXVII.

35. Jorge A. Vargas, *Mexican Law on the Web: The Ultimate Research Guide*, 32 INT'L J. LEGAL INFO. 34, 36 (2004).

36. CÁMARA DE DIPUTADOS H. CONGRESO DE LA UNIÓN, LEYES FEDERALES DE MÉXICO, <http://www.cddhcu.gob.mx/leyinfo/> (last visited May 16, 2006).

ago Prof. Vargas attempted to alleviate much of this tedious wandering with his own guide to researching Mexican law on the internet.³⁷ But even he warns that “any Mexican law information in English which has been taken from an on-line site . . . should be handled with caution.”³⁸ That is little relief for the new associate hoping to provide some accurate authority for a pleading under Federal Rule of Civil Procedure 44.1.³⁹ Fortunately, *The Mexican Civil Code Annotated* accounts for at least one out of Mexico’s eight federal codes.⁴⁰ Prof. Vargas’ translation affords the American tenderfoot a sorely needed foothold on the world of Mexican civil law.

In the book’s introduction, Prof. Vargas notes three features that make his work uniquely user-friendly for the legal researcher or practitioner new to Mexican law. First, Prof. Vargas includes his article *The New Federal Civil Code of Mexico*.⁴¹ While it is brief, the article goes a long way to answering many frequently asked questions. The article provides a solid foundation for both a basic understanding of the Federal Civil Code’s place in the larger framework of Mexican law as well as a starting point for additional research. In addition to explaining the social and political origins of the Federal Civil Code, the article points out several of the more critical elements of the code such as the principle of limited territoriality, the concept of moral damages, and the modernization of family law.

37. See generally Vargas, *supra* note 35. See also Francisco A. Avalos & Elisa Donnadieu, *An Electronic Guide to Mexican Law*, GLOBALEX, Nov. 2005, <http://www.nyulawglobal.org/globalex/Mexico.htm>.

38. Vargas, *supra* note 35, at 44.

39. See FED. R. CIV. P. 44.1. (“Determination of Foreign Law - A party who intends to raise an issue concerning the law of a foreign country shall give notice by pleadings or other reasonable written notice. The court, in determining foreign law, may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Federal Rules of Evidence. The court’s determination shall be treated as a ruling on a question of law.”). See generally John G. Sprankling & George R. Lanyi, *Pleading and Proof of Foreign Law in American Courts*, 19 STAN. J. INT’L L. 3, 58-59 (1983) (“Statutes in particular require interpretation in order to be applied to the facts at bar, because the public policy embodied in them is rarely clear on their face. Consequently, courts sometimes have been willing to look beyond the commonly accepted notion that precedent carries no weight in civil-law systems and have relied on decisions from foreign jurisdictions.”); *Usatorre v. The Victoria*, 172 F.2d 434, 439 (2d Cir. 1949).

40. The other seven federal codes are: the Code of Civil Procedure, the Criminal Code, the Code of Criminal Procedure, the Code of Commerce, the Code of Military Justice, the Code of Electoral Institutions and Procedures, and the Fiscal Code of the Federation. CÁMARA DE DIPUTADOS H. CONGRESO DE LA UNIÓN, *supra* note 36.

41. VARGAS, *supra* note 1, at XIX (originally published in Jorge A. Vargas, *The Federal Civil Code of Mexico*, 26 U. MIAMI INTER-AM. L. REV. 229 (2005)).

Second, Prof. Vargas provides extensive bibliographies of both Mexican and U.S. sources for each part of the code in the appendices. The Federal Civil Code is divided into four "books:" Individual Persons and Legal Entities (*Personas Físicas y Personas Morales*), Property (*Bienes*), Decedent's Estates (*Sucesiones*), and Contracts (*Obligaciones*). The four page-long bibliography of Mexican sources in Appendix 1 is grouped according to each of the code's books with an additional section of general sources. *Personas* and *Obligaciones* get the most attention. And while each source's title is accompanied with a parenthetical English translation, the sources themselves look to be only in Spanish. Prof. Vargas describes this bibliography as containing the "longest list of the most well-known legal works . . . written by the most prestigious and prominent Mexican jurists, law professors and legal practitioners ever compiled."⁴²

Meanwhile, Appendix 2 provides a comprehensive, thirty-two page list of recent U.S. articles and books that are available in English. Unlike the Mexican sources, this compilation is conveniently sorted by subject matter. Subject headings include: agricultural law, *amparo* process, bankruptcy, business law, criminal law, electricity industry, environmental law, family law, immigration, labor law, NAFTA, tax, technology, and women's rights. Whatever the issue, the novice cross-border practitioner can be sure to gain confidence with this vetted list of sources from which to begin their research.

The third unique feature of *The Mexican Civil Code Annotated*, and the one that sets it apart from all previous translations, is the inclusion of English translations of Mexican federal court rulings (based on the 1928 Civil Code) for many articles of each "book." Mexico, as a civil law country, does not embrace the doctrine of *stare decisis*.⁴³ However, pursuant to the *Amparo* Act and Title Four, decisions of the Supreme Court of Justice (*Corte Suprema de Justicia de la Nación*) or of the Circuit Collegiate Courts (*Tribunal Colegiado de Circuito*) may become legally binding on the federal and state courts, as well as administrative, labor and military tribunals in what is called a *jurisprudencia*.⁴⁴ Such a *jurisprudencia* results from five consecutive and substan-

42. *Id.* at XVII.

43. See generally Woodfin L. Butte, *Stare Decisis, Doctrine, and Jurisprudence in Mexico and Elsewhere*, in *THE ROLE OF JUDICIAL DECISIONS AND DOCTRINE IN CIVIL LAW AND IN MIXED JURISDICTIONS* 311 (Joseph Dainow ed., 1974).

44. VARGAS, *supra* note 9, at 299-300.

tively identical Supreme Court resolutions that are not interrupted by a contrary decision.⁴⁵ The individual decisions composing a *jurisprudencia* are called *tesis* and are only of persuasive value.⁴⁶ The closer such a ruling is to the required fifth, the greater its persuasiveness.⁴⁷ The Supreme Court “may reverse the established jurisprudence so long as it states its reasons for so doing, which should have some relation to the principles relied upon in establishing the original jurisprudence which it now reverses.”⁴⁸

The majority of federal cases arise as *amparo* suits.⁴⁹ An *amparo* suit (*juicio de amparo*) is “an original Mexican institution with no exact equivalent in the common law tradition.”⁵⁰ It is

a constitutional suit of a summary nature, the object of which is to protect in a special case and at the petition of the injured party, all private persons whose individual rights as established in the Constitution have been violated through laws or acts of authorities, or when the laws or acts of the Federal authorities injure the sovereignty of the States.⁵¹

Amparo suits “have five diverse functions: (1) protection of individual guarantees; (2) testing allegedly unconstitutional laws; (3) contesting judicial decisions; (4) petitioning against official administrative acts and resolutions; and (5) protection of the social rights of farmers subject to the agrarian reform laws.”⁵² *Amparo* suits may be “either be direct, initiated in the Supreme Court or collegiate circuit courts, or indirect, initiated in a district court and [then] brought on appeal to the previously mentioned courts.”⁵³

Prof. Vargas advises that “Mexico’s sound legal research prin-

45. *Id.*

46. *See id.*

47. VARGAS, *supra* note 1, at XV.

48. HELEN L. CLAGETT & DAVID M. VALDERRAMA, A REVISED GUIDE TO THE LAW & LEGAL LITERATURE OF MEXICO 407 (1973) (internal citations omitted).

49. *Id.*

50. FRANCISCO A. AVALOS, THE MEXICAN LEGAL SYSTEM 10 (2d ed. 2000). *See generally* RICHARD D. BAKER, JUDICIAL REVIEW IN MEXICO: A STUDY OF THE *Amparo* Suit (1971).

51. CLAGETT & VALDERRAMA, *supra* note 48, at 39 (quoting Manuel Gual Vidal, *Mexico Amparo Proceedings*, in SELECTED PAPERS AND REPORTS ON CURRENT LATIN AMERICAN, EUROPEAN AND ASIATIC LEGISLATION, 1941 A.B.A. SEC. INT’L & COMP. L. 82).

52. Hector Fix Zamudio, *A Brief Introduction to the Mexican Writ of Amparo*, 9 CAL. W. INT’L L.J. 306, 316-17 (1979).

53. AVALOS, *supra* note 50, at 10.

ciples dictate that it is always recommended to ascertain the tenor of the latest interpretation given to that specific legal provision" by the Supreme Court or Collegiate Circuit Court in their most recent *jurisprudencia*.⁵⁴ Indeed, case law may be considered a basic element in the three step process of Mexican legal research. The first step is to determine the relevant code and the specific code article(s) that apply to the specific situation.⁵⁵ Instead of keyword searching, Mexican legal research is "done by thinking in broad, general legal concepts and then working down to the specific."⁵⁶ The second step is to find the applicable doctrine.⁵⁷ The final step is to search for Supreme Court *jurisprudencia* and *tesis sobresalientes*.⁵⁸

Consequently, Prof. Vargas graciously supplies the English translation, citation, and holding of the relevant *jurisprudencias* or *tesis*. For example, immediately following Article 267 pertaining to the grounds for divorce, Prof. Vargas adds five "jurisprudences" and two "theses."⁵⁹ Each of these consist of the *rubro*,⁶⁰ a sentence or two describing the rule, the name of the court, the name of the case, date of decision, the number of votes and in some instances the name of the *ponente*⁶¹ and *secretario*. Generally, the basic holdings are understandable. However, while this feature of the book is its greatest attribute, it can be frustrating for those unfamiliar with Mexico's judicial system.

V. A FEW DIFFICULTIES

Prof. Vargas has done a great service for U.S. lawyers by including English translations of the relevant *jurisprudencias* and *tesis* in his publication of the civil code. However, there are a few, minor, difficulties. Prof. Vargas has not provided any information as to either the organization of Mexico's court system or the method to retrieve a Mexican case based on the citation provided. A brief primer on Mexico's judiciary and case reporting system,

54. Vargas, *supra* note 35, at 46.

55. AVALOS, *supra* note 50, at 14.

56. *Id.*

57. *Id.* at 16.

58. *Id.*

59. Vargas, *supra* note 1, at 119.

60. "Heading, title." LAROUSSE SPANISH-ENGLISH ENGLISH-SPANISH DICTIONARY UNABRIDGED ED. (1st ed. 1993).

61. "Justice, or tribunal member who is in charge of examining the documents, directing the discovery, and submitting a proposed decision to other members of the court for their approval." 2 GUILLERMO CABANELLAS DE LAS CUEVAS & ELEANOR C. HOAGUE, BUTTERWORTH'S SPANISH/ENGLISH LEGAL DICTIONARY (1991).

similar to the article he included explaining the history and contents of the civil code itself, would be sufficient to ease the reader's disorientation.

Fortunately for the common law practitioner, Mexico's federal judiciary is organized in a three tier system similar to that of the United States.⁶² The Supreme Court (*Suprema Corte de Justicia de la Nación*) has final appellate jurisdiction over all state and federal courts.⁶³ The circuit courts (*Tribunales de Circuito*) consists of both single judge courts (*Tribunales Unitarios de Circuito*) and collegiate courts (*Tribunales Colegiados de Circuito*).⁶⁴ The federal courts of first instance are the district courts (*Juzgados de Distrito*) and jury courts (*Jurados Populares Federales*).⁶⁵ Articles 94 to 107 of the Constitution and the Organic Law of the Federal Judiciary (*Ley Orgánica del Poder Judicial de la Federación*) govern the organization and authority of Mexico's federal judiciary.⁶⁶

Supreme Court decisions are officially published in the *Semanario Judicial de la Federación* (Judicial Weekly of the Federation), which is divided into a series of seven *épocas*.⁶⁷ The first five *épocas* contain the actual texts of court decisions and resolutions.⁶⁸ However, since the sixth *época* the practice has been limited to only simple extracts, with the exception of extraordinary cases (e.g. those of first impression).⁶⁹ Because the first four *épocas* (*jurisprudencia historica*) preceding the 1917 Constitution have no binding force, most accessible Mexican case law consists of extracts. Indeed, "published case decisions are condensed to a point that most common law researchers would consider

62. See MARTIN C. NEEDLER, *MEXICAN POLITICS: THE CONTAINMENT OF CONFLICT* 87-90, 94-96 (2d ed. 1990) ("The citizen of the United States would find little that is unfamiliar about the government of Mexico if he looked solely at the nation's constitution, or at a formal organizational chart. . . . But that is the form. The content is of course different. . . . The judiciary, however, does have a limited measure of independence from the executive, and has rendered decisions against the executive. . . . However, the judiciary normally limits itself to a nonpolitical role and has not mounted frontal challenges to Mexican presidents, as the U.S. Supreme Court has sometimes done with respect to presidents of the United States.")

63. AVALOS, *supra* note 50, at 9. See generally Jorge A. Vargas, *The Rebirth of the Supreme Court of Mexico: An Appraisal of President Zedillo's Judicial Reform of 1995*, 11 AM. U. J. INT'L L. & POL'Y 295 (1996).

64. AVALOS, *supra* note 50, at 9.

65. *Id.*

66. *Id.* See also VARGAS, *supra* note 9, at 283-98; ZAMORA ET AL., *supra* note 11, at 186-228 (2004) (explaining the Mexican judicial system more thoroughly).

67. See CLAGETT & VALDERRAMA, *supra* note 48, at 409; AVALOS, *supra* note 50, at 17.

68. CLAGETT & VALDERRAMA, *supra* note 48, at 409.

69. *Id.*

extreme."⁷⁰ The researcher will likely find the *considerando* (conclusion of law) with only those facts necessary to make the ruling comprehensible.⁷¹

[T]he loss to the legal scholar of the minute but pertinent facts, issues, and other potentially valuable materials for an effective, accurate, and thorough legal research, which only an actual text could provide, would seem to be the inevitable result . . . [which] would seem to be more restrictive of, rather than conducive to, a steady and progressive growth of jurisprudence.⁷²

Prof. Vargas can thus be forgiven for not supplying a more complete guide to finding Mexican case law. Accessing decisions in the *Semanario* "is extremely difficult and time consuming."⁷³ Unfortunately, this is because the manner of indexing and the terms chosen for each topic are constantly changed from *época* to *época* and even from volume to volume within each *época*.⁷⁴

Consequently, private publishers have sought to make Supreme Court decisions more accessible. *Mayo Ediciones* offers "the . . . most complete" reporting service.⁷⁵ The company publishes numerous titles: *Jurisprudencia y Tesis Sobresalientes*; *Jurisprudencia*; *Poder Judicial de la Federación*; *Informe* (annual report of the most important Supreme Court cases of the year); and *Compilación Mayo del Semanario Judicial de la Federación*.⁷⁶ Unfortunately, all of these materials are available only in Spanish; however, this only heightens the significance of the English translations that Prof. Vargas has provided.

To get a feel for the advantage presented by Vargas's *Mexican Civil Code Annotated*, we have only to look at one of the *jurisprudencias* that are appended throughout the code. For example, Article 267 provides:

JURISPRUDENCE

DIVORCE, FAILING TO PROVIDE SUPPORT AS GROUNDS FOR.— . . . in contentious divorces it is necessary that the required grounds for divorce remain clearly

70. AVALOS, *supra* note 50, at 18.

71. *Id.*

72. CLAGETT & VALDERRAMA, *supra* note 48, at 409-10.

73. AVALOS, *supra* note 50, at 17. See also EZEQUIEL GUERRERO LARA, MANUAL PARA EL MANEJO SEMANARIO JUDICIAL DE LA FEDERACIÓN (1982) (instructing how to use the *Semanario*).

74. AVALOS, *supra* note 50, at 17.

75. *Id.*

76. *Id.* at 17-18.

specified and the refusal of the obligee is proven, in order for the tribunal to appreciate the gravity of the lack of compliance demonstrative of the scorn, unattachment, abandonment, or lack of affection of the plaintiff spouse or his/her children, and which would make it impossible to live together; gravity that is not justified when in an imprecise manner it is alleged that the defendant has not complied in its entirety with the provision of support.

A.D. 3233/96.—Lila Pérez Ramírez.—13 de junio de 1996.—Unanimidad de votos.—Ponente: José Becerra Santiago.—Secretario: Gustavo Sosa Ortiz. Tercer Tribunal Colegiado en Materia Civil del Primer Circuito. Novena Época, Tomo IV, Agosto de 1996. Pág. 418.⁷⁷

The format of this *jurisprudencia* is generally similar to what is found in the *Mayo Ediciones* titles, with the obvious difference that the rule here is in English. While most of the italicized citation sections remain in Spanish, Prof. Vargas has translated a few, scattered throughout the book.

In addition to the lack of background material on Mexico's judicial system and case law apparatus, there are two other relatively superficial difficulties. First, Prof. Vargas has chosen a disorderly and inconsistent arrangement for the *jurisprudencias* and *tesis* throughout the code. Perhaps it makes sense for those with a more intimate understanding of Mexican case law, but for the novice, the lack of organizational clarity is jarring. The *jurisprudencias* and *tesis* seem to run unbroken, one into the next, without any indents, numerals or section breaks to delineate one from the other or to suggest each one's relative importance. Some *jurisprudencias* and *tesis* have been given a bold, all-caps heading of "Jurisprudence" or "Thesis," as in the example above. But what falls under the heading may include several separate rules that go on for pages. The reader is left with the impression that the headings are inconsistent or inconsequential. A simple introduction explaining the types and sources of judicial decisions, an English translation for each citation, and a better organized typographical style would go a long way to remedying what is basically a formatting problem.

Second, the English translations of the *tesis* and *jurisprudencias* are occasionally substandard, presumably the result of a literal approach to translation. "International litigation often focuses sharply on law/language issues. . . . [E]xtraordinary stress

77. VARGAS, *supra* note 1, at 111.

is placed on the translated law; a single mistranslated word may result in victory or defeat.”⁷⁸ Therefore, the awkward word order or lack of subject-verb agreement is difficult to excuse. Here is another example from Article 267: “[t]he cause of action on grounds for divorce to be valid require that there be a final sentence that establishes a punishment longer than two years in prison.”⁷⁹ The error is slight and not substantive, but it is obvious enough and thus contradicts the very purpose of providing an authoritative English translation. While not every judicial holding is translated poorly, the errors occur regularly enough. If Prof. Vargas intends this book to be used by judges and practitioners in the United States, he will have to re-translate and re-organize the judicial holdings in order to communicate the law with the clarity and exactness that professionals expect.

VI. CONCLUSION

When all is said and done, Prof. Vargas’ effort is laudable. He has sought to accomplish what heretofore had not been attempted. By including English translations of *jurisprudencias* and *tesis* he has made available a feature of Mexico’s legal system that is of inestimable usefulness for those practicing law north of the Rio Grande. The *Mexican Civil Code Annotated* is an excellent first step. As Mexican law becomes more pervasive in American courts, arbitrations and business transactions, Prof. Vargas’ book will hopefully evolve to keep step with the common law attorney’s ever increasing interest in its application.

78. Dan Fenno Henderson, *The Japanese Law in English: Some Thoughts on Scope and Method*, 16 VAND. J. TRANSNAT’L L. 601, 616-17 (1983).

79. VARGAS, *supra* note 1, at 115.