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The Fundamental Rights and Civic Duties of the People

a translation of selected texts from
Derechos fundamentales y deberes cívicos de las personas
by Jaime B. Fuster Berlingeri

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Dedication

To my son, Julio Jaime Lugo Fuster, for your constant reminders to get my work done and for helping me push through these last few months. I never want to hear “go, go, go” ever again!! But in all seriousness, always remember: “*Nunca es tarde si la dicha es buena.*” I love you.

To my mother, María Josefina Zalduondo Viera, for always encouraging me to do more, for instilling a love for foreign languages, and for always being my rock.

To my father, Jaime B. Fuster Berlingeri, for teaching me the value of public service, the importance of participating in our country’s development, and the satisfaction of assisting our fellow citizens. I would have liked to share this with you. You are missed!

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But, most of all, my heartfelt thanks to my thesis supervisor, Dr. Luis García Nevares, without whose support I would not have been able to complete this project. He was the first person with whom I connected at the PGT. From that first day, he has always given me good advice and a cheery outlook when life gets tough. Besides the theoretical aspects of the translation process, I learned from him practical approaches and applications that made this learning experience real. A thousand times, thank you!

Translator's Preface

Introduction

When I took the course on “*Redacción*,” we worked on a mock thesis proposal. At that time, I chose this book, *Derechos fundamentales y deberes cívicos de las personas*, as the object of my thesis because it was on my desk at home. I always knew I would choose source material with a legal topic because it felt natural. After all, I have been practicing law for over twenty-five years. My brain is already wired to think in that specific type of language.

I considered recent legal treatises from Puerto Rican law professors, law review articles on thought-provoking jurisprudence, and even the current law of the Real Estate Property Registry of the Commonwealth of Puerto Rico, which has yet to be translated into English. However, when I finally started discussing my options for this work with Dr. García Nevares, this book kept floating in my mind. I wanted to translate something that would be current and useful for me as an attorney but also appealing to other people who are not. It was Dr. García Nevares who convinced me that this would be a wonderful project. Not only is the topic appealing and contemporary, but it was written by a brilliant, dedicated (then) law professor, Jaime B. Fuster, my father. Using this book for my thesis has afforded me the opportunity to revisit a topic that was part of my daily life in my home and to hear my father's voice once again.

About the Author

Jaime Benito Fuster Berlingeri was born in Guayama, Puerto Rico in 1941. He spent his childhood years in Guayama until 1958 when his father died, and the family moved to San Juan. Fuster did his undergraduate work at the University of Notre Dame in South Bend, Indiana. He continued his studies at the University of Puerto Rico School of Law, where he earned an LLB; at Columbia Law School in New York, where he earned an LLM; and at Harvard Law School in Boston, where he was awarded a Law and the Humanities Fellowship. Fuster also did post-graduate studies in Law at the University of Denver in Colorado, Williams College in Williamstown, Massachusetts, and Harvard Law School (SJD *candidacy*). In 1985, he received an LLD from Temple University in Philadelphia, Pennsylvania. His areas of specialization in the field of Law were Constitutional Law, Ethics, Legal Theory, and Legal Sociology.

Fuster had a varied professional life. He began his professional career in 1966 at the University of Puerto Rico as a law professor in the School of Law. In 1969, he was named dean of students of the Río Piedras Campus of the University of Puerto Rico. In 1970, he returned to the School of Law and, in 1974, was named dean. Fuster occupied this post for four years, into the late seventies. During this time, he was also an active member and officer of the Colegio de Abogados de Puerto Rico and a consultant for several entities of the government of Puerto Rico, such as the Commission on Civil Rights, the Environmental Quality Board, and the judicial

branch. In 1979, he was named deputy assistant to the attorney general of the United States of America. At the beginning of 1981, he returned to Puerto Rico and was later named president of the Catholic University of Puerto Rico. Although he had participated indirectly in Puerto Rican politics throughout his adult life, in 1984, he entered the political arena and was elected resident commissioner of Puerto Rico in Washington, DC. He held this position until March 1992, when he was appointed, confirmed, and sworn in as associate justice of the Supreme Court of Puerto Rico. He passed away on December 3, 2007, at the age of 66.

Fuster firmly believed in the importance of education for an individual's betterment and society's improvement. He valued the constitutional right to education. He understood that having an informed citizenry is the way to achieve an authentic democratic way of life. Regardless of the position he held, Fuster strove to further that goal throughout his career. Writing this book, *Derechos fundamentales y deberes cívicos de las personas*, was one of the ways in which he contributed to the education of our people on the basics of our constitutional rights and our role as members of a democratic society.

About the Text

Although this book is an academic text, it was not intended to be a legal treatise on the topics of the Constitution of the Commonwealth of Puerto Rico, the Bill of Rights, and civic duties. It was written as a primer for ordinary citizens without any training or background in the legal system of Puerto Rico. The principal purpose

of this work is to educate the readers on their fundamental rights as citizens in Puerto Rico and their obligations and duties as members of society. Although the author's register is not consistently simple, it is drafted in a manner that allows for the discussion of the topic to be understood by the readers through repetition and examples. There are no references to legal provisions or regulations, no discussion of jurisprudence, only illustrations of everyday situations that are easily recognizable by most people.

There are printed and digitalized versions of this book. For this thesis, I used the digitalized version, which is 239 pages long, including the exhibits. It contains a thematic index; an illustrations index; a preface written by Rene Pinto Lugo, Esq., former president of the Puerto Rico Civil Rights Commission; and a preliminary note by the author. It is divided into two parts, "Part One: The Fundamental Rights of the People," which discusses the Bill of Rights of the Puerto Rican Constitution, and "Part Two: The Civic Duties of the People." Originally, they were two separate books. However, in 1997, Fuster was asked by the Civil Rights Commission to update and revise those books and produce a single volume. It was remarkable that although more than thirty years had passed since the publication of the first one of those books, the topic was still relevant and consequential. This book has been used in private high schools in the island and is currently part of the syllabus of various programs in the University of Puerto Rico and the Interamerican University of Puerto Rico. It is still used by the Puerto Rico Civil Rights Commission as source text for several of their outreach programs on civil rights. It has also been

referenced locally and in the United States in legal essays and is housed in the repositories of several Ibero American civil rights organizations. For a time, it was one of the resources offered to the public on the Puerto Rico judicial branch's online site.

The text I chose to translate is the part on civic duties. It commences with a preface by the author in which he explains why people need to know what their civic duties are. The rest of the text is divided into three chapters. Each chapter is divided into subchapters and ends with a questions section that serves as a teaching exercise. In order to comply with the limits imposed on the length of this thesis, our translation covers the Preface, the Introduction (which is Chapter One) that presents the reason for the existence of civic duties, and Section I and part of Section II of Chapter Two that presents the civic duties to the government. I did not include the questions sections.

Relevance of Civic Duties Today

“Civic” is defined as “of or relating to a citizen, a city, citizenship, or community affairs.” It derives from the Latin term “*civicus*,” from “*civis*” or citizen (“civic.” *Merriam-Webster*). Thus, civic duties are the duties of a citizen, and, as the author explained in the Introduction to the text, they are the “flip side of the coin” of civil rights (181). They are the foundation of a functioning society. Civil rights encompass those fundamental liberties, powers, and living conditions that human beings have as members of a community (Fuster 23). Civic duties comprise those

obligations community members must perform to ensure the community's acknowledgment and upholding of those rights (Callaway).

Civic duties are central to a democratic form of government. In a citizen-centered system, in which the citizen has the power to form the government by electing those who will lead the country on their behalf, citizens must participate actively in their society (Project 5). Despite all the movements that generated action and changes in the United States during the 1960s and 1970s, citizen interest and participation in civil society have declined, politics have become polarized, and distrust in government has increased (Making 2-4). People must remember the importance of citizens working together to promote the public good and achieve a better society.

The situation in Puerto Rico is not dissimilar. Governmental mismanagement, unscrupulous and uninspiring leaders, and economic problems have greatly hindered citizen participation. The first logical step for invigorating popular engagement is bringing the issue back. The public discussion of civic duties is still very relevant today. For this reason, it is important to have sources like Justice Fuster's work available to everyone.

Translation Challenges

Maintaining the Author's Voice

I first read this book during my years as a law student. It was a review of concepts and issues I had learned during my Constitutional Law class and a reminder of the subject matter of many discussions at the family dinner table. Many years passed from when I read the book to when I first thought about using it for my thesis. I recollected that it was a straightforward discussion on civil rights and civic duties. I always remembered my father saying that the book's purpose was to provide a general knowledge of these rights and duties.

However, when I reread it and started to analyze it from a translator's point of view, I found that the register was more formal than I remembered, particularly the preface and the initial chapter on the definition and purpose of the subject of civic duties. As I read these pages again, I could imagine Justice Fuster lecturing on this topic. He had a vast knowledge of this subject matter and had spent many years teaching it and discussing it in different academic and political scenarios. He was a masterful teacher. Fuster could take the most complex material and explain it to his students in a way that made sense and aided their understanding. Yet, he had a particular manner of communicating in speech and writing and did not simplify the terminology he used. He implemented different teaching methods and strategies to get his point across while maintaining an elevated discourse.

Given that I could not discuss my impressions of this text with the author, I had to rely on my personal experience. I was fortunate to have heard him speak in varied situations: lectures in a classroom, addresses at university functions, stump speeches at political rallies, testimonies before governmental commissions, and informal conversations at gatherings with friends and family. This text is a fine example of his style of communicating his ideas and opinions. It was essential for me to attempt to convey the tone and register he typically used, even though I believe it could have been written in plainer language based on the book's purpose.

Use of Passive Voice

The translated text presents readers with information about civic duties and their importance for a democratic society. In addition, it furnishes everyday life examples to assist readers in understanding the presented concepts. It is an expository text in which the author desires to be objective in his account of the subject matter. Wherefore, he frequently used a construction known in Spanish as the “*impersonal refleja*,” a clause in which the subject is not named or identified but is substituted by using the third person pronoun “*se*” to convey this sense of lack of specificity as to the agent/subject of the argument (*Impersonales* 783). For example:

<p><i>Se aumenta el caudal de ideas disponibles para bregar con los problemas sociales (206).</i></p>	<p>The flow of ideas available to deal with social problems is increased (39).</p>
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<p><i>Cuando se ignora o se desatiende esta obligación cívica, se priva al Gobierno de un importante recurso... (206)</i></p>	<p>When this civic obligation is ignored or neglected, the government is deprived of a vital resource... (40)</p>
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This type of construction in English can be achieved using the passive voice. When a clause is constructed in the passive voice, the agent or subject (of the active clause) becomes unimportant and can even be omitted. Moreover, the point of view of the clause changes to allow for another element of the clause to receive the focus or weight of the argument (Downing 234-235). Although this type of sentence construction is not preferred in either Spanish or English, it serves a purpose. In fact, in the legal field, it is commonly used. It permits the writer to maintain objectivity by focusing the discussion on the topic instead of on the actor. Consequently, I elected the construction in the passive voice. It felt natural to this type of text. Additionally, it supported my commitment to maintaining the author's voice in the target text.

Sentence Structure

The first and most prevalent translation issue I encountered was how the author constructed some of his sentences. Syntactic rules in the Spanish language are different from those of the English language. Sentence structure in English usually follows a rigid order: subject, verb, object. On the other hand, Spanish is much more flexible. Word order can be shifted freely, but sometimes shifting the order can affect the message conveyed. Thus, when trying to convey an equivalent

message between the source text and the target text, it is important to be aware of the importance of word order (Baker 120).

Right from the start, in the first sentence of the Preface, I found this problem—compounded by the fact that the sentence is constructed using the “*impersonal refleja*” form.

<i>Siempre que se mencionan los derechos de las personas, algunos se preguntan si no deben discutirse en su lugar los deberes que las personas también tienen</i> (181).	Whenever people’s rights are mentioned, some wonder if the duties people also have should not be discussed instead (3).
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I believe that, for the most part, I confronted this issue due to the author’s recurrent use of this type of clause construction.

Another difference I identified was that the subject pronouns were frequently omitted in the source text, as is common in Spanish. Many sentences begin with the verb “*es*,” “*son*,” or “*parece*.” In English, it is obligatory to use the subject pronoun. It is not grammatically correct to start a sentence with “is,” “are,” or “seems.”

Finally, using the masculine form as the unmarked gender in the source text also proved challenging. Occasionally, the author refers to the reader: “*Quizás el lector esté preguntándose...*” (189). [“Maybe the reader will be asking himself...”] In Spanish, especially when this book was written, using the masculine as the unmarked gender was the norm. However, I was uncertain which form to use since this translation would be read presently. The author regularly used the masculine

as the unmarked gender. I am used to using the masculine or including references to both genders; for example, instead of saying “the reader, himself,” I may use “the reader, him or herself.” In this specific case, however, I did not follow the author’s manner of expression. I chose to use the more gender-inclusive form in the plural “the readers, themselves” or “they” instead of “him or her” because it facilitates understanding the material. Of course, this meant that the agreement in number of the source text would be different from the target text. Moreover, because of this adjustment in the target text, I elected to always refer to the readers, in the plural, even though the author used the term in singular. This made using the gender-inclusive plural form more natural in the target language.

Repetitions

As I have previously mentioned, the author prepared this text as a tool for teaching the readers about civic duties. The author used different techniques in this process, including repeating concepts or ideas. He used the same terms over and over within a section. At first glance, I instinctively wanted to search for synonyms or find alternate ways to express the concept presented. We are taught to enrich the quality of our writing by avoiding the repetition of words or sentences in any written work. It makes the text boring and stale. However, after some consideration, I decided to keep the repetition exactly as in the source text rather than finding equivalent terms to convey the message. Once again, my principal

objective was to preserve the author’s particular way of communicating when teaching a subject.

Another type of repetition in the source text proved challenging when translating: using two synonyms, one after the other, in the same sentence. In this text, the author uses this rhetorical figure recurrently. For example:

<p><i>Los juicios van dirigidos a aclarar que fue lo que de veras sucedió o aconteció en el caso en cuestión (204)</i></p>	<p>Trials seek to clarify what really happened or occurred in the case in question (36).</p>
<p><i>Aun en los casos y las situaciones en las cuales la voluntad popular se conoce... (206).</i></p>	<p>Even in cases and situations where the popular will is known... (39).</p>

In almost all its occurrences in the text, I chose to translate both terms because the equivalent in English existed and using them together made sense in the target text. Moreover, in these cases, I included both terms in the translation because this repetition of ideas is consistent with the author’s teaching techniques and communication style. However, there was one instance in which I did not include both in the target text. “*Sin el dinero que se recibe de esos **impuestos y contribuciones...***” (204). [Without the funds received from such taxes... (37).] I found that, in this sentence, using the word “duties,” meaning a “tax,” could prove confusing in contrast with the term “duties,” meaning an “obligation,” which is used predominantly throughout the text. In this case, I believe omitting it would not detract from the sentence’s meaning or the author’s intent.

Specification of Certain Words Central to Text

In my analysis of the text before commencing the translation, two terms proved quite problematic. Both are used repeatedly in the text, and one of them is central to the discussion of the main topic of this work: “*convivencia*” and “*funcionario público*.”

convivencia

The term “*convivencia*” comes from the term “*convivir*.” According to the *Diccionario de la lengua española*, the term “*convivir*” means “*vivir en la compañía de otro u otros*” [to live in the company of another or others], or “*coexistir en armonía*” [to coexist in harmony]. In the source text, the author states that this concept is the reason for the existence of civic duties (186). He explains that, according to the philosopher Aristotle, humans are social beings and, as such, need to live in groups to avoid feeling lonely and to fully develop their individual personalities (186). Living with others allows human beings to obtain those things necessary for life (Fuster 186). However, living with others is not easy due to those same realities that compel human beings to need community life (Fuster 187). Therefore, humankind makes community life possible by establishing a set of rights and duties concerning others.

I first considered the most apparent terms that could serve as equivalents in English for this concept: “coexistence” and “cohabitation.” “Coexistence” is defined in the Merriam-Webster dictionary as “to exist together or at the same time” and “to

live in peace with each other, especially as a matter of policy.” “Cohabitation” is defined as “to live together as a married couple,” “to live together or in company,” and “to exist together.” I understood the author’s use of this term as technical in the source text, so I needed to choose an equivalent in English that conveyed that specificity. To substantiate my interpretation of the author’s use of the term, I searched online for similar texts dealing with the topics of civil rights and civic duties. The term “cohabitation” was used predominantly to refer to couples. “Coexistence” was used more often to convey the idea of groups of people living together. It seemed to me to be the better alternative.

I also considered other commonly used phrases that refer to this type of interaction among people, such as “living together,” “community life,” “community living” and “communal living.” I immediately discarded “communal living” because, although it is related to living in a community, it is more often used to refer to groups distinguished by their collective ownership of property and shared responsibilities. It did not convey the same universal sense to which the author referred. The remaining other concepts could be used for “*convivencia*” in some instances. However, they did not convey the particularity that the source text demanded when communicating this term as a technical concept. I used them in some cases in which the use of “coexistence” felt contrived. The following table shows examples of when I used each term.

<p><i>Los deberes cívicos, pues, son los cimientos sobre los cuáles se edifica la convivencia en un sistema democrático de vida como el nuestro (191).</i></p>	<p>Civic duties, thus, are the foundations upon which coexistence is erected in a democratic way of life such as ours (17).</p>
<p><i>Para conocer el origen de las obligaciones que las personas tienen frente al Gobierno del país, es necesario comprender el nexo que existe entre el Gobierno y la convivencia (193).</i></p>	<p>In order to learn the origin of people's obligations regarding the country's government, it is necessary to understand the link between the government and community living. (20).</p>
<p><i>No puede haber un buen Gobierno ni una buena convivencia si en el debate público los políticos se dedican mayormente a insultarse y a ventilar cuestiones personales y promesas vagas en lugar de proponer y discutir ideas concretas sobre cómo atender los problemas del país y los asuntos colectivos (202).</i></p>	<p>There cannot be good government or good community life if politicians devote themselves primarily to insulting each other and airing personal matters and vague promises instead of proposing and discussing specific ideas to deal with the country's problems and collective affairs (34).</p>

funcionario público

Another term frequently used by the author in the second part of the text, which I found a challenge when looking for an equivalent in English, is the concept of “*funcionario público*.” At first glance, one could surmise that it refers to any person that works for the government. Nonetheless, there are differences in how one relates to people who work for the government based on the nature of their employment. In Puerto Rico, there used to be a distinction between “*funcionario público*” and “*empleado público*” established by law based on the participation of that person in the development and implementation of public policy (Governmental

Ethics). The first one referred to persons elected or appointed to governmental posts, and the latter to employees performing administrative functions. Thus, I could not use the terms “government employee” or “government functionary” in the target text. The following two terms that I considered were “civil servant” and “public official.” However, “civil servant” refers to career employees rather than appointed or elected officials. Therefore, I opted to use “public official”.

Sayings

As part of producing a relatable text for the readers, the author chose to include several popular sayings in the text. Sayings, idioms, and proverbs are texts marked by the expressions of popular wisdom of a particular culture (Cobelo 85). As such, they pose a challenge to the translation process (Cobelo 85). Some of these expressions have literal or very approximate equivalences. For example, in the source text, the author used: “*Dos cabezas piensan mejor que una*” (206) and “*El pez grande se come al chico*” (207). In English, there are proverbs worded almost identically: “Two heads are better than one” and “Big fish eat little fish.” In other cases, as in the following one, the equivalence can be found in the meaning behind the expression: “*Para los gustos se hicieron los colores*” (187) and “*No debe ponerse al ratón a cuidar el queso*” (200 fn. 1). These idioms have corresponding ones in English: “To each his own” and “One should not let the fox guard the henhouse.” Although they are different in the terms used and their grammatical construction, they convey the same meaning. The first proverb expresses that every person has a

personal preference. The second one states that some people cannot be trusted to oversee certain situations because they will exploit them to their benefit. I used the *Oxford Dictionary of Proverbs* and the *Farlex Dictionary of Idioms* as references to confirm the meanings in English.

Of all the sayings the author included in the text, there was one that proved to be a significant challenge for me because I had never heard it before. For this one, I first had to research its meaning in the source language. The proverb is: “*De olla que no he de comer, con dejarla hervir me basta*” (207). I used the *Refranero multilingüe* page at the *Centro Virtual Cervantes* online site. At first, I did not find it. I tried another source, my mother. She had not heard it before either but gave me another saying that seemed to have the same meaning: “*Agua que no has de beber, déjala correr.*” The site offered the following synonym for this last saying: “*Lo que no has de comer, déjalo cocer.*” This saying was more like the one the author had used. Again, the expression is grammatically different, but the meaning is the same. However, the English equivalent offered was a poor option. It is an expression that is in disuse: “Scald not your lips in another man's pottage.” Since I did not find another proverb like it in the *Oxford Dictionary of Proverbs*, I searched at large over the internet. After many days of searching, I found a quote from an unknown author on a site called *Searchquotes.com*. It says: “Don't concern yourself with things that don't concern you. If it's not your business, don't make it your burden.” I found the second sentence of this quote to be appropriate for the use intended by the author. It is a more relatable expression of the message contained in the proverb.

Quotations

There are four direct quotations from other works in the text. The author opened the section of the book on civic duties with two quotes, one by Mahatma Gandhi in English and the other by Eugenio Maria de Hostos in Spanish (180). The additional two quotes are an edited version of the Preamble of the Constitution of the Commonwealth of Puerto Rico (Fuster 189) and a well-known quote from an English philosopher (whom he did not identify): “power corrupts, and absolute power corrupts absolutely” (Fuster 208). The author identified the source of only the Preamble of the Constitution quote. Moreover, the book does not have a bibliography or works cited section. Hence, I had to start researching the sources online. In addition, I utilized the *WorldCat* online site. In my translation, I included the references to these quotes to facilitate locating the sources for the readers.

I found the source for Gandhi’s quote at the University of Puerto Rico School of Law Library. The original version is almost identical to the one included in the text. It is a letter by Mahatma Gandhi dated May 25, 1947, to Dr. Julian S. Huxley, then Director-General of UNESCO. In the first sentence of the quote, the author wrote the term “learned” instead of “learnt,” which appears in the original source. Since I could not ask the author why he chose to write the quote this way or if it was an intentional choice, I examined the use of these terms further. Both these words are accepted as the past participle of the verb “learn.” The difference in their spelling is a matter of regional use. The preferred spelling in the United States and

Canada is “learned.” Also, the term “learned” has been used more frequently than “learnt” during the past hundred years, according to the *Google Books Ngram Viewer*, in American English and British English. Maybe the author thought the term “learned” would be recognized by more people, or perhaps he used another source. However, since I believe that the original source uses the term as Gandhi wrote it, I choose to keep it.

I found a digital copy of the original source for the De Hostos quote at a site called *Liga Internacional de Escuelas Eugenio María de Hostos*. It offers access to all the volumes of De Hostos *Obras Completas*. I also searched for an English translation of this work online and in WorldCat. Since I did not find one, I prepared my own translation.

The third direct quote is from the Preamble to the Constitution of the Commonwealth of Puerto Rico. As with the De Hostos’ quote, I first checked the original in Spanish to ensure the author had transcribed it correctly. Then, I searched for an official translation of that part of the Constitution into English on the Lexis Nexis online site. The source in English is the collection of the Laws of Puerto Rico Annotated (L.P.R.A.).

The fourth quote is from Lord Acton, John Emerich Edward Dalberg. Once again, since the author identified the source only as an English philosopher, I had to search for the source online. I found a site called the Online Library of Liberty

which has transcribed the original text that comes from a letter from Lord Acton to Archbishop Creighton. I used this version as the translated text.

Conclusion

As I mentioned before, the main purpose of this text is to educate readers on a topic of paramount importance to them as individuals and as members of the society in which they live. Fuster's goal when writing this book was to raise awareness in the readers of what it means to be part of a civil society by highlighting the importance of strengthening relationships of coexistence within the community and contributing to the improvement of the group as a whole. It is a valuable resource that should reach as many people as possible. Making available an English translation of this text provides non-Spanish speakers, within and outside of Puerto Rico, the opportunity to learn about our system of government, our country, and our society.

Embarking on this project has meant more than just fulfilling a requirement for my master's degree. As a translator, I was challenged by a text that contains many nuances. This translation exercise enabled me to apply many concepts I learned during these past years. As a lawyer and member of the legal profession in Puerto Rico, I was able to contribute (albeit in a small way) to the collective by producing an equivalent text in English that may expand its use as research and informational material. But, mainly, as a daughter, I was afforded the opportunity

to revisit my father's work and to contribute to bringing back this important publication which is part of his legacy to our country.

Eginta!

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