

# **PRUDENTIA IURIS N° 80**

## **35° aniversario**

Revista de la Facultad de Derecho de la  
Pontificia Universidad Católica Argentina  
“Santa María de los Buenos Aires”



**Diciembre 2015**

## PRUDENTIA IURIS

*Prudentia Iuris* es una publicación semestral de la Facultad de Derecho de la Pontificia Universidad Católica Argentina “Santa María de los Buenos Aires” que tiene por objeto la elaboración de un pensamiento jurídico coherente con los principios fundamentales de la Justicia y el orden natural, iluminados por la Fe (*Prudentia Iuris*, Nro. 1, agosto 1980, pág. 3).

Entre nuestros destinatarios se encuentran profesores, investigadores, legisladores, jueces, abogados y estudiantes de las Ciencias Jurídicas como así también bibliotecas de Universidades, Centros de Investigación y otros organismos. La publicación mantiene intercambio con aproximadamente 310 publicaciones tanto nacionales como extranjeras.

En las últimas páginas del ejemplar se incluyen las Normas de Publicación para los autores junto con el sistema de evaluación empleado para la selección de las colaboraciones por publicar. Los autores de los artículos publicados además cederán sus derechos a la editorial, en forma no exclusiva, para que incorpore la versión digital de los mismos al Repositorio Institucional de la Universidad Católica Argentina como así también a otras bases de datos que considere de relevancia académica.

*Prudentia Iuris* se encuentra incluida en la base de datos EBSCO, Latindex, Dialnet, y REBIUN. Todos los contenidos también pueden ser encontrados en la Biblioteca Digital de la Universidad.

Datos de contacto para suscripciones, canjes, envíos de trabajos y correspondencia:  
Revista *Prudentia Iuris*, Facultad de Derecho, Pontificia Universidad Católica Argentina, Avda. Alicia Moreau de Justo 1400, CP 1107, Buenos Aires, Argentina, [prudentia\\_iuris@uca.edu.ar](mailto:prudentia_iuris@uca.edu.ar); [www.uca.edu.ar/derecho](http://www.uca.edu.ar/derecho).

*Prudentia Iuris* is a biannual Journal of the Faculty of Law of the Pontifical Catholic University of Argentina “Santa Maria de los Buenos Aires” which aims at developing a legal thinking coherent with the fundamental principles of justice and natural order, illuminated by Faith (*Prudentia Iuris*, no. 1 August 1980, p. 3).

Among its recipients are Professors, Researchers, Legislators, Judges, Lawyers and Students of Legal Science as well as Libraries of Universities, Research Centers and other Agencies. The publication maintains exchange with approximately 350 National and Foreign Publications.

In the last pages we include the Publication Standards for authors with the evaluation system used for the selection of the articles that are included for publishing. The authors of published articles also transfer their rights to the publisher, in non-exclusive basis, to incorporate the digital version of the same to the Institutional Repository of the Catholic University of Argentina as well as other databases that the University considers of academic relevance.

*Prudentia Iuris* is included in the database EBSCO, Latindex Directory, Dialnet, and REBIUN. All content can also be found in the Digital Library of the University.

For subscriptions, swaps, paper submissions and correspondence:  
Revista *Prudentia Iuris*, Facultad de Derecho, Pontificia Universidad Católica Argentina, Avda. Alicia Moreau de Justo 1400, CP 1107, Buenos Aires, Argentina, [prudentia\\_iuris@uca.edu.ar](mailto:prudentia_iuris@uca.edu.ar); [www.uca.edu.ar/derecho](http://www.uca.edu.ar/derecho).

ISSN: 0326-2774

Queda hecho el depósito que previene la ley 11.723

**THE ART OF HUMAN RIGHTS: ENRICHING THE LIFE OF THE LAW  
SCHOOL THROUGH DRAWINGS AND OTHER VISUAL RESOURCES**  
*El Arte de los Derechos Humanos: enriquecer la vida de la Facultad de Derecho a  
través de dibujos y otros recursos visuales*

Santiago Legarre\*

**I. In general**

In the life of the Law School, focus on the “visual” can operate at three different levels: learning, teaching, and examining (legal concepts). My main interest in this paper is to explore the latter level, “examining”, broadly considered so as to encompass evaluation in general. Furthermore, that interest is pinned down here to the area of constitutional rights and human rights in general, even though the conclusions reached can (and should) likely be extrapolated to other areas of the law.

The following passage by psychologist Kendra Cherry sums up well the distinction between the first two levels referenced above:

While aligning teaching strategies to learning styles may or may not be effective, students might find that understanding their own learning preferences can be helpful. For example, if you know that visual learning appeals to you most, using visual study strategies in conjunction with other learning methods might help you better remember the information you are studying<sup>1</sup>.

In effect, the first logical step regarding the relevance of the visual approach has to do with using it yourself when you study —assuming that you came to the

\* Professor of Law, Universidad Católica Argentina; Visiting Professor, Notre Dame Law School (USA) and Strathmore University Law School (Kenya); independent researcher, CONICET. LL.B., Universidad Católica Argentina; M.St., Oxford; Ph.D., Universidad de Buenos Aires. A paper delivered at the IALS Annual Meeting, Mysore, March 6th-8th, 2013 and, previously, at the Third Annual Meet of The Law Schools Global League, Jindal Global Law School, Sonapat, 27-28 February 2013. Correo electrónico: santiagolegarre@uca.edu.ar

1 Kendra Cherry, “VARK Learning Styles: Visual, Aural, Reading and Kinesthetic Learning”, at <http://psychology.about.com/od/educationalpsychology/a/vark-learning-styles.htm?r=et>, last visited on 10 December 2012.

conclusion that you are a “visual learner”. As you know, VARK theorists propose a quadripartite classification of learners. The acronym VARK stands for Visual, Aural, Read/write, and Kinesthetic sensory modalities that are used for learning information. This model was designed in the late 80s by Neil Fleming and it has received some acceptance and a lot of attention<sup>2</sup>.

I am not much of an expert in educational psychology so I would rather remain agnostic as to the definitive merits of VARK theory. But you don’t need to buy into it to understand that, for example, you are a visual learner, i.e., one who “would rather see information presented in a visual rather than in written form”<sup>3</sup>. So if you come to the conclusion that you learn better by seeing than by reading, you will naturally tend to study through charts, diagrams, and illustrations —and you should!

Half way through my law degree I realized that I was a visual learner (even though I didn’t quite put it like that then). It is truly amazing for me to compare and contrast now the notes I made then in order to prepare my final exams. The notes and summaries from my first years are plagued by full sentences and paragraphs. By contrast, the notes from my last years of law school lack all proper writing and syntax; they are a bunch of arrows pointing at correlations; drawings; charts: the kind of thing, by the way, that only I could understand. Indeed, while my notes for the first years of the law degree were quite palatable to my friends, who used to borrow them, the same was not true of the later notes: no one wanted them at all for the obvious reason that they were... indecipherable.

Now, as Ms. Cherry suggests in the passage quoted above, it is one thing to accept that if you are a visual learner you are likely to be better off studying through visual resources, and quite a different one to conclude that teaching strategies ought to be aligned with students’ learning styles. This is especially the case given that you will not only have visual learners in your classroom but also, *ex hypothesi*, representatives of other VARK categories.

In any event, and without foreclosing the possibility of using visual devices for purposes of teaching some human rights questions, I will focus in the next section on the third level I had announced at the opening of the paper: the evaluation of the students’ understanding of human rights concepts.

## II. Evaluation of human rights concepts through visual devices

Let me share with you a real story —my own story of how I ended up using visual tools with a view to evaluating law students’ understanding of human rights concepts. I have taught full-time since 1995, which means that I have been teaching full-time for 18 years. The reason I clarify this is not for you to think that I am old; or for you to think that I look younger than I really must be. The reason is that it was about time I came up with a smart idea from my many years of teaching experience. A few years ago I came up with such an idea, I hope. This is how it happened.

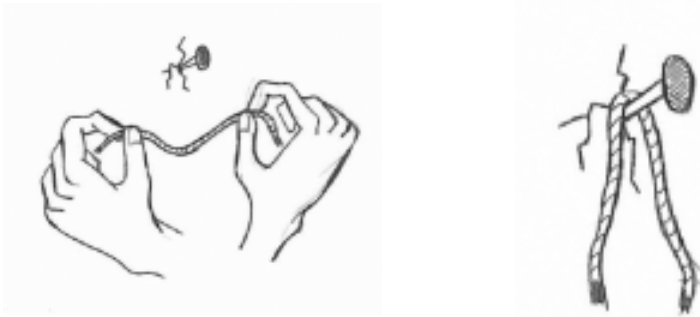
<sup>2</sup> See <http://www.vark-learn.com/english/page.asp?p=categories>, last visited on 10 December 2012.

<sup>3</sup> Kendra Cherry, *cit.*



In 2010 I found myself in the situation where, to be honest with you, I was a bit bored with my teaching. (If you have been teaching for a while, perhaps you will not find that disclosure too surprising.) I had taught Constitutional Law and Human Rights Law for many years. I decided that to not get frustrated—and for my students not to notice my incipient boredom—I had to introduce something new into the classroom. (The students are those who are more harmed by their teacher's boredom, it should be noticed in passing.) So I came up with the idea of drawings.

The idea dawned on me when, during one of the German lessons I attend at the Goethe-Institut, professor Wolfgang Tichy explained the meaning of the proverb “the extremes meet” —a proverb meaning that antagonistic positions often have much in common, a proverb more common in other languages than in English, as it seems—... by means of a drawing. He drew something like this on the board:



These pictures<sup>4</sup>, I think, speak for themselves —this is the nice thing about pictures...

So one day I came to class and I told the students: “For next week you will have to draw a map”. The objective of this exercise was for them to *show* me the structure of my country's judiciary, at both the local and the federal level. I had the impression that having them draw a map would: i) give them a suitable tool for explaining the concept of the judicial power and the interrelations between the local and the federal judiciary; ii) help them to better understand and remember that concept and those interrelations. Both things, I must say, proved to be true. Indeed, one student even said on reflection that what he had learnt through drawings was by far what he had remembered the most.

As an incentive for the students, I told them that I would award prizes for the best drawings. I also explained that by “drawings” I didn't mean just drawings: they could use any visual device and they would be assessed based on creativity and the limited use of words.

<sup>4</sup> I thank much Max Cernello, an attorney quite interested in visual tools, for drawing these pictures at my request.

It goes without saying that I had to start thinking about good prizes. Several colleagues and friends gave me suitable books that ended up in the hands of the winners. I also got them limited subscriptions to journals and law reviews. I finally found a culminating prize for the best “drawing” of the whole year. I wrote to my colleagues who run the International Youth Leadership Conference and they generously agreed to offer a scholarship each year for one of my students to attend the extraordinary event that takes place in Prague every winter. Two of my winning students have already participated in the conference. Their feedback makes it clear that a good drawing is well worth the effort: it can be worth a visit to the most beautiful city in the world!

In my second year using drawings for the purpose of assessing comprehension of legal concepts, I introduced some additional dimensions. First, I started to use the tool to evaluate difficult human rights dilemmas, such as the tensions between the right to privacy and compelling state interests. I remember that one of the best drawings illustrating this tension was one of a kite divided into four quarters, each of which contained different levels of state intervention in private life<sup>5</sup>.

Second, I tried to solve a quantitative problem: the number of drawings I had to consider for evaluation purposes was too high. If I was going to give adequate consideration to each one of them, which was required at least by the fact that I was going to be awarding prizes, including a scholarship to attend a conference in Prague, I needed a filter to reduce the number of works I reviewed. To this end, I appointed two teaching assistants (students from the previous year, who knew how and why I used drawings, having produced them themselves) to evaluate drawings according to the following system. The TAs handle the first round of evaluation such that only half of the students participating in the drawings contest make the cut. The other half is eliminated. Only the victorious half makes it into the second round of the contest, where the professor (i.e., yours truly) performs the evaluation and awards the prizes. (Normally there is a first, a second, and a third prize.)

Third (and partly thanks to this new system), I started to use the students’ drawings to teach some topics I encountered in reviewing their works (and deciding to whom will the awards go). It is much easier to teach some difficult concepts with drawings as the starting point, even if to correct mistakes in the pictures. And, believe me, my working materials were *very* good, very ingenious drawings. I think it will probably be a universal experience that if you do this kind of contests you will find out, to your surprise, that you had many hidden artists in your class. Therefore, you will end up with some fantastic drawings to work with, which will make it easier to shed light upon obscure realities and concepts.

Last, I decided to have some of the contests take place at my university’s small art gallery. The curator kindly agreed to this, and so from time to time my students and I have class in the art gallery, where they bring their drawings and I explain some topic and award the corresponding prizes. Of course this is quite thrilling for the students. Not only do they display their own home-made art in a museum —on

5 On the tensions between the police power and constitutional rights (a more general instance of the problem mentioned in the text) see the Appendix to this paper.

its floor, that is to say— but they also have the opportunity to visit an art gallery, sometimes for the first time in their lives. They certainly did not expect this when they signed up for their Constitutional Law course!

All in all it has been a great experience. I have the joyful role of contributing inadvertently to developing the hidden talents of my students, plus the notable responsibility awarding prizes without knowing much about art myself.

### III. Visual tests

The third year of using drawings for purposes of assessing the comprehension of constitutional law and constitutional rights came with a new twist. In 2012 I used for the first time drawings... on tests.

Given that the students had consistently practiced explaining concepts through pictures during two semesters (first in “Constitutional Law” and subsequently in “Constitutional Rights”) I thought that the time was ripe for my method to be tested on tests. Even though this new use was going to be fair (given that prior practice), I decided to offer it as an option so that those with less artistic inclinations would not feel prejudiced by the system.

Consequently, in the last written exam of the second semester (corresponding with “Constitutional Rights”) the students were allowed to choose to answer half of the questions through drawings. Those who opted to do so would have the advantage of being given extra time to draw their answers. This was a minor incentive that I decided to introduce in order to shift the balance towards visual answers, though the students could likely discern my inclination to (perhaps unconsciously) reward those who elected to draw.

Well, be that as it may, half of the students decided to draw. They did so really well and also did really well on the exam. I was utterly delighted. Let me tell you what the exam was about and how the students drew their answers.

One of the questions that could be answered by drawing pictures asked about differences between two theories concerning the constitutional right to privacy<sup>6</sup> — theories that also apply, by and large, to the human right to privacy as recognized by several international documents<sup>7</sup>. In US Constitution Law, as well as in Argentine Constitutional law, to mention but a couple of examples, these theories are sometimes called “spatial” and “decisional”<sup>8</sup>. The theories don’t really matter for our purposes, except to illustrate how students who drew their answers approached the task.

6 See, for example, article 19 of the Argentine constitution of 1853: ‘The private actions of men which in no way offend order and public morality, nor harm a third party, are reserved to the judgment of God only, and exempt from the authority of the magistrates [...]’

7 See e.g. article 8.1 of the European Convention on Human Rights: ‘Everyone has the right to respect for his private and family life, his home and his correspondence.’

8 For a thorough account of the spatial theory of the constitutional right to privacy see Louis Henkin, ‘Privacy and Autonomy’, 74 Columbia Law Review 1410, 1411 y 1424 (1974); a useful account of the decisional theory can be found in *Justice* Blackmun’s dissent in the United States Supreme Court case *Bowers v. Hardwick* 478 U.S. 186, 204 (1986).

That a significant portion of the students chose to draw their answers is telling, as is the fact that they generally performed satisfactorily (even though most of the students that are within the group of drawers are not what one could call natural born artists). I think that the experiment—testing my method on tests—passed the test. Perhaps next year will bring a new opportunity to further test its outer limits.

#### **IV The Foremost Enemy of the Visual: the Visual**

I will conclude by noting a contrast. Insofar as it is true that visual tools have great advantages for learning about, teaching, and examining legal concepts—in particular, in the area of human rights—it is also true that other visual tools can detract from the efficacy of teaching. If drawings can effectively convey complex situations within Constitutional Law, the presence in the classroom of electronic devices can certainly distract the drawers.

There is now the ever increasing availability of the Internet in the classroom, be it through Wi-Fi, iPads, BlackBerrys, iPhones or other Smartphones. Furthermore, law schools pride themselves in this increased availability of wireless technology. As a result, students experience a daily temptation—an irresistible temptation, most of the time—to navigate the web during classes.

I sometimes offer my students an analogy between the current situation in the classroom and the Star Wars trilogy—though we all know that it is no longer a trilogy. The first part, as you might remember, is called “A New Hope”, where we first meet Luke Skywalker et al.. The new hope is, for the bored professor, PowerPoint presentations, projected on a screen in a darkened classroom. The second part of my modified version of the saga is “The Students Strike Back”. Here the students, tired of watching slides on a screen, bring their own screens to the classroom: their laptops coupled with Internet availability provide for an amusing alternative to what is happening on the main screen. On your own little screen you can, in hiding, check your email, read the New York Times, play a game or even watch Star Wars or some other movie. Surely this couldn’t last? Well, I don’t know about that, but some professors couldn’t stand the shame and hence the last installment of the trilogy: “The Return of the Prof”, in which the teacher decided to turn on the lights of the classroom, gaze at the students in search of eye contact and talk to and with them.

Whether you like my analogy with Star Wars or not, and whether the *status quo* regarding Internet in the classroom should change or not, methods like the one that I have suggested in this paper help counterbalance the problem posed by the unlimited availability of technological resources. Given that drawings are no less visual than what is happening on a screen the odds are that they might succeed in keeping people’s attention better than the mere rhetoric of a speech.

I hope that by further exploring the virtues of drawings and pictures for the purpose of teaching human rights concepts, we will be able to offer our students a higher quality legal education.

## Appendix

An outstanding instantiation of the theory: Sofia Arroyo's award-winning picture on the police power and constitutional rights, titled "The Police Power Inc.: Your Favorite Gardener".

