promotions, and related workplace decisions. Political scientists, on the other hand, have documented order effects in voting.

The workplace may sometimes operate with alphabetic order exerting some influence on decisions for which an employer either gets relatively little information about applicants or has no strong preferences among a pool of candidates with similar qualifications. On the other hand, when more information is available or when it is important to select the most qualified applicant, order effects seem to disappear. Further exploration of these effects could enhance understanding of workplace patterns.

Deconstructing the rejection letter: a look at elitism in article selection

D Subotnik & G Lazar

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Consider the student law review editor who rejects an article ostensibly because of deficiencies in the author's legal reasoning. Might the real reason be political? Imagine that the editor represents a highly influential law review and the author is an assistant professor who needs an acceptance by an elite journal for promotion. Notwithstanding assurances that it comes only after careful consideration, might rejection be a vehicle for reifying social and power relations which are characterised by domination? If so, might we not, using exam grading as a model, move to blind reviewing of articles?

Can critical legal studies help us evaluate the phenomenon of law review article selection? Not much, unfortunately, because of its reluctance to take its legal realism and Marxist roots out of the realm of high theory. Its successor movement, critical race theory (CRT), is less skittish. The charge that the law consistently favours the powerful in the distribution of benefits and burdens extends now to such diverse concerns as free speech, immigration policy, welfare policy, employee rights, the criminal justice system and the tax structure.

This is not to suggest that CRT has won the battle over the law's non-neutrality. But surely it has won the battle for legitimacy in the law reviews. Twenty years ago, minority academics were excluded from the civil rights debate. Now hundreds of their articles appear in the law reviews, including the elite reviews and a large proportion of the articles are on CRT.

Just as in the criticalist view the law bolsters establishment positions, so the top law reviews systematically favour articles from authors (whether majority or minority) at high-status institutions (HSIs). If criticalists are right that institutions are designed primarily to extend the power of their founders, then it should follow that standards for their decision-making would be selected and applied with the same objective. Since articles by faculty from low-status institutions (LSIs) can ordinarily add little if any status value, one would expect such articles to be substantially disadvantaged in the evaluation process at HSIs. If this were the case, it would represent a major blow to any notion that law reviews, and maybe even law schools, function as meritocracies.

No generally accepted way to measure quality is available, because there is wide disagreement about appropriate standards. A heuristic has come into use to solve the problem of quality: placement of articles in the top journals. If editors at the top journals do not conduct blind reviews of submitted articles, then selection will likely be grounded to some extent on a basis other than quality. That the top law reviews in fact disproportionately publish in-house work is well established. CRT would predict that one inference that could be drawn is that the reviews are feathering the school's nest.

While no systematic study of law reviews shows conscious exclusion of faculty at LSIs, quite a lot of anecdotal evidence points in that direction. Several recent law review articles unabashedly rate law reviews according to the institutional status of their authors. It should not

be surprising that the most extensive study of the law review selection process concluded that the lack of blind review seriously comprises the credibility of the manuscript review process.

The notion that scholars' prestige should be taken into account in evaluations of their work is not indefensible. The reputation of an author, corresponding to a familiar trademark in markets for goods and services, is one criterion and not the worst. Readers, knowing Posner's work, may well be more interested in what he has to say on a particular subject than in the views of a less well-known scholar. But what is indefensible is giving points for such things as the author's academic affiliation or the number and length of footnotes. And the literature on law reviews offers little support for such practices. And yet, unless one simply assumes that LSI authors do not have what it takes, the prestige of an author's school is given considerable weight.

TEACHING METHODS & MEDIA

Situated learning and the management of learning: a case study

K Barton, P Mckellar & P Maharg

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Situated learning, focusing on the pragmatic and social aspects of learning, has as its basis the notion that learning is essentially dependent on the immediate situation of action. It is a strength of the theory that it supports a constructivist approach to learner-centred instructional design. Nevertheless, even a learner-centred theory, such as situated learning, requires more if its product is to be successful in facilitating learning. Student learning requires management at every level: within individual learning activities, within a module syllabus and within a curriculum. It is essential for the success of embedded IT that instructional designers pay attention to learning management issues, that they signal the presence of

these issues in their courseware documentation, and that lecturers and tutors who use the courseware take these issues into account when implementing and embedding computer-based learning in the curriculum.

As an example of this argument, the computer-based learning program *Virtual Court Action* is examined. This program was designed to be used in the learning and teaching of procedural law in a Scottish university law curriculum. Using document assembly techniques and email, this program emulates part of a civil court action in a Scottish court, with identical personnel, legal documents and procedure.

Learning management is critical to the success of any computer-based learning (CBL) intervention. In the *Virtual Court Action* course, learning management played a key role in the project's success. The project was designed to teach students court procedure by allowing them to become the pursuers and defenders in their own hypothetical court action, using technology to simulate the real life environment. The aim was to develop students' understanding of the progression of an ordinary civil court action, along with the interactions that take place between the various parties, and to develop students' understanding of the content of the legal documents which form the basis of the action.

The project was piloted over a four-week period with 70 full-time and part-time undergraduates. The students were assigned to groups of three, and each group became the pursuer or defender in a civil court action, having been issued with a unique case scenario which gave sufficient information to allow it to initiate or defend the action. The students then actively progressed the action to an identifiable point in the procedure by drafting the appropriate legal documentation and corresponding with each other and with the Sheriff Clerk using email. The project was not designed to stand alone, or to replace traditional learning methods, but the number of weekly seminars was reduced for the duration of the project.

Based on the evaluation of the pilot project, ways were considered to increase opportunities for co-operative learning. Once again, the way forward here arose from reflection upon the learning management issues that presented themselves. It became clear during the pilot project that several common issues were being raised with the tutor by the student groups. There was an ineffective use of staff time.

To reduce the need for tutor support and encourage co-operative learning, the introduction of a peer discussion forum was considered. There are two main reasons why this might help manage and facilitate student learning. First, dialogue with peers and tutors has been a fundamental premise of higher education and is an important element of deep learning and reflective thought. Traditionally, this dialogue has taken place only when participants have been physically present. But technology in the form of electronic dialogues now provides forums for discussion which do not rely on face to face communication. Second, electronic dialogues can have the additional benefit of simulating the real, professional, legal environment where colleagues would engage in regular dialogue. Accordingly, we set up a HyperNews discussion group.

Learning management may be defined as control or management or administration of activities that allow learning to take place. The use of computer labs in the teaching and learning in the *Virtual Court Action* was one such issue. Educational concerns surround apparently issues such as centralisation of room booking, the types of labs available to teach in, the layout of computers in the labs, software loading and accessing and the like. Often, traditional frames of educational delivery are embedded in the way we use labs.

Perhaps the fundamental point about learning management is that it is often unregarded in learning theories. The general point about its relatively low profile in C&IT learning theory is interesting in itself. This has come about for three reasons. The first has to do with the difficulty of examining learning management in

classroom practice. With its many and synchronous events, learning in schools, further and higher education is an object of remarkable multi-layered and ever-changing complexity. Moreover, a class is always a class in time, and its precise features can never be replicated experimentally. Second, CBL is still a new form of learning and teaching, and teachers need to routinise its use before they feel comfortable in using it. The third reason lies in the nature of the decisions to be taken at design and implementation stages. It is axiomatic that CBL is designed for an audience, but that audience includes not just students who will use the program as a learning resource, but staff who will use it as a teaching resource.

Learning management was crucial to the success of the project. Situated learning theory guided many aspects of design, particularly in the early stages. The design stage of CBL should, as far as possible, take into account the learning management issues which will be faced by those implementing the technology. Classrooms, after all, and the learning events which take place within them, are the intersections of many overlapping, sometimes contradictory discourses and situations. This is inevitable. What we need to do as designers as well as teachers is to manage the learning experience so as to help students negotiate the contradictions and improve their legal learning.

Appellate advocacy competitions: let's loosen some restrictions on faculty assistance

Each year hundreds of law students compete in dozens of interscholastic moot court competitions throughout the country. Many of these students receive coaching in oral argument from faculty, alumni, and other students who have participated in such competitions themselves.