Exploring the Role of Communities of Practice in Judicial Continuing Education

Julia Storberg-Walker
North Carolina State University

This manuscript presents preliminary findings from a case study. The study focused on one aspect of learning: the dual processes of participation and reification. Based in the community of practice literature, this learning is critical to understanding how the judges use the artifacts of their practice differently. These artifacts, otherwise known as codes, rulings, regulations, and practices, were the focus of a judicial education intervention. Implications for HRD are discussed.

Keywords: Communities of Practice, Learning, Judicial Education

Most experts agree that the Supreme Court is undergoing a time of profound change and transformation that could impact our society for years to come (Baker, 2005; http://www.law.umich.edu/library/news/topics/alito/alitoindex.htm; http://www.factcheck.org/article340.html; accessed 11/13/05). These changes will be a result of two new justices assuming two of the highest positions in the judicial branch of government. These new justices will be appointed and confirmed by the executive and legislative branches (respectively), and the appointment and confirmation processes are currently 'hot topics' of conversation and debate. The news media, interest groups, citizens, and elected officials are debating the 'job' of judges in particular and the role of the judiciary in society in general (http://partners.is.asu.edu/~george/vacancy/index.html, accessed 11/13/05). The debate about what judges should do, how they should act, and how they should understand their role remains contested, and this debate is not new. However, recent events including the 2000 presidential election, the Schiavo case, abortion, and gay marriage have made the debate more relevant and important in the normal day to day lives of people.

Problem Statement

It may seem extraordinary to consider the role of judicial education in this time of debate and inquiry. If we cannot agree on the role of judge in society, and if we cannot agree on what a judge should and should not do, how can we effectively analyze judicial education? I argue precisely because it *is* a time of debate and inquiry, we *should* pose the difficult questions aimed at understanding and developing judicial expertise and knowledge that leads toward judicial performance on the bench. If we know more about what judges actually do (such as a task analysis for a knowledge worker), we may be more able to understand the complex and multifaceted relationships between judicial members, society, and government. Further, if we understand more about how judicial education can change or transform the actual performance of judges, we may be able to identify the constraining or enabling forces that impact judicial activity and, by extension, the normal, everyday activities of people in our society.

I argue that it is important for HRD scholars and practitioners to understand more about the actual job of judging, and the actual trainings that are offered to judges, because HRD isn't just about organizational imperatives and profit. When one considers that HRD is about performance and learning in a variety of work contexts, including judicial performance and learning, one sees that HRD has a huge impact on society in general, and on the lives and activities of normal people in particular. Consequently, research on judicial education and training is one way to understand how HRD can contribute towards individuals (e.g., judges and the people they judge), organizations (e.g., judicial operating districts), and society (e.g., judicial influence through judicial performance or decisions in communities, counties, states, and nation).

To contribute towards this larger goal, this manuscript focuses on judicial training in a particular context: family court and domestic violence. I present preliminary findings from a planned long term research collaboration between a researcher at a research extensive university (myself) and a judicial association primarily focused on judicial education and development (fictitiously named Judicial Training, Inc. or JTI). For this study, JTI wanted to understand more about the impact it is having on the actual performance of judges that attend their training. The research questions for this preliminary inquiry are: How does the JTI training influence judicial knowledge and expertise? And if it does influence judicial knowledge, how does the training generate new learning?

While this manuscript provides a preliminary analysis of data gathered at one JTI training session, future manuscripts will expand the analysis to include how judicial training and education impacts judicial philosophy, which in turn impacts people, communities, and the nation.

This case study is presented in the typical seven section format for presenting research: 1) problem statement; 2) conceptual foundations; 3) methods; 4) findings; 5) discussion; 6) limitations; and 7) conclusions and implications for HRD. The case study is exploratory in nature, and the findings presented here focus on one particular component of the larger analysis—this component is the role of *meaning making* in doing the work of being a judge. Because the job of being a judge is complex, contested, ambiguous, dynamic, fluid, and at the same time codified, regulated, and political, it seems that the nature of the work is profoundly personal and at the same time highly public. It must be personal in the sense that a judge needs to have highly developed expertise in using the artifacts (e.g., codes, regulations, presentations, evidence, etc.) of judging, in order to ground her work and to sustain her through the vicissitudes of practice. It must be public in the sense that a judge needs to be aware of the greater influence of using those artifacts to make rulings on people's lives, the community, and society. This combination of job or role attributes suggests that how a judge *makes meaning* of these judicial artifacts is a critical component of judicial performance and decision making. As such, this manuscript presents preliminary findings on the impact that JTI's judicial education has on judicial meaning making vis a vis the artifacts associated with domestic violence.

Conceptual Foundations

Based on extensive conversations with JTI leaders, judicial trainers, and domestic violence advocates, the conceptual foundations for this research project emerged over time. This process of conversation and analysis continues, and as of now is centered on the concept of communities of practice, or COP. COP is being used in this study as a way to understand and analyze the process and outcomes of judicial training. Wenger (1998) posits that learning requires engagement in a social practice, and that learning is intricately connected to who we are and who we become. This section will describe how COP emerged as a conceptual foundation and then describe the specific component of COP that will be analyzed for this manuscript.

During preliminary negotiations to define and delimit the research collaboration between JTI and myself, it became clear that peer-to-peer education was seen as the most effective way to 'teach' judges. I posed numerous questions during interviews and meetings to flesh out what JTI leaders and judicial training experts meant by peer-to-peer education. I should note that JTI is viewed as the premier judicial association for family court judges, and that the specific training program targeted for evaluation is widely acknowledged as innovative and effective by both judges and domestic violence advocates alike.

As I began to understand more about the role of peer-to-peer education as described by these experts, the literature on communities of practice (COP) began to emerge as a comprehensive way to understand and analyze the emergent learning processes and outcomes of the training program, and the type of judicial *practice* that the program sought to create. The JTI experts continually described the *emergent* nature of the learning they aspired to provide to judicial participants; consequently, the conceptual foundations of the study needed to provide analytical tools and perspectives that could examine the pedagogy and the processes of learning that emerged through participation in the training. JTI experts never knew exactly what would happen during their training sessions—all the instructors could do was present balanced information and position themselves and the curriculum so that the judicial participants learned from other judges (instructors, seminar leaders, and peer participants).

Many typical concepts on organizational knowledge and learning could not serve as a foundation for this study because this study needed to understand emergent learning. For example, Cook and Brown (1999) asserted that most work on organizational knowledge treated knowledge as something owned and possessed, not something co-created by practice. This typical transfer-of-training perspective was not relevant to this study because of its idea that knowledge is 'moved' from point A (instructor) to point B (student). This perspective is similar to Freire's (1993) idea of 'banking' type of education, although it does not address oppression or emancipation. Like Freire's (1993) 'problem posing' type of education, newer research suggests that knowledge and learning are intricately tied to doing, or practicing. This strand of learning literature is relevant to this study. Lave (1988) found that people actually knew more about a topic (e.g., using mathematics while grocery shopping) when embedded in social-historical practice than a traditional test measuring knowledge possession would find. Lave and Wenger (1991) and then Wenger (1998) found that learning is much more than knowledge transfer or transmission—while Lave and Wenger (1991) sought to understand how individuals learn and become experts in practice, Wenger (1998) took the inquiry to the next level and produced a comprehensive understanding of the role of peers in that learning trajectory.

Based on the requirements of JTI and the findings of the literature review, COP literature seemed a logical choice for the conceptual foundations of this study. COP literature is not without controversy (see, for example Contu and Wilmott, 2003) and the concept risks becoming irrelevant and diluted by becoming all things to all people. To overcome this hurdle, I went deeply into the primary literature (Wenger, 1998; Lave and Wenger, 1995; Lave 1991) to understand the *mechanisms* of communities of practice. I bracketed all that I already knew about COP from the management literature (see, for example Wenger, McDermott & Snyder 2002) and focused instead on the 'pure' concepts and mechanisms as crafted by Wenger (1998) and Lave and Wenger (1991). The concepts and mechanisms are the underlying analytical pieces of COPs that help us to understand the complicated social processes of learning, meaning, and identity formation through practice. These analytical pieces are described in Table 1. Due to space limitations, I provide a detailed description of the *meaning* component or mechanism relevant to this manuscript; future publications will more fully explore the other mechanisms relevant to the overall judicial education and training research project. The *meaning* component of COPs was selected for this manuscript because it presents a relatively easy to craft example of the power of using COP as the conceptual foundation for emergent learning.

Table 1. *Brief description of Analytic Components*

Basic Aspect of Practice	Component
Meaning	*Participation*: living in the world, membership, acting, interacting, mutuality
Meaning	*Reification*: forms, points of focus, documents, monuments, instruments, projection
Community	*Joint Enterprise*: negotiated enterprise, mutual accountability, interpretations, rhythms, local response
Community	*Mutual Engagement*: engaged diversity, doing things together, relationships, social complexity, community maintenance
Community	*Shared Repertoire*: stories, artifacts, styles, tools, actions, historical events, discourses, concepts
Learning	*Evolving forms of mutual engagement*: "discovering how to engage, what helps and what hinders; developing mutual relationships; defining identities, establishing who is who, who is good at what, who knows what, who is easy or hard to get along with," (p. 95)
Learning	*Understanding and tuning their enterprise:* "aligning their engagement with it, and learning to become and hold each other accountable to it; struggling to define the enterprise and reconciling conflicting interpretations of what the enterprise is about," (p. 95)
Learning	*Developing their repertoire, styles, and discourses*: "renegotiating the meaning of various elements; producing or adopting tools, artifacts, representations; recording and recalling events; inventing new terms and redefining or abandoning old ones; telling and retelling stories; creating and breaking routines," (p. 95)

According to Wenger (1998), the three basic aspects of practice (e.g., meaning, community, and learning) interact with and reinforce each other; likewise, the analytical components of each aspect are deeply integrated into each other. For example, *meaning* is derived from the interplay between participation and reification; they "cannot be considered in isolation: they come as a pair. They form a unity in their duality…To understand one, it is necessary to understand the other. To enable one, it is necessary to enable the other. They come about through each other, but they cannot replace each other. It is through their various combinations that they give rise to a variety of experiences of meaning," (Wenger, 1998, p. 62).

Participation suggests action and connection, and is defined as "the social experience of living in the world in terms of membership in social communities and active involvement in social enterprises," (Wenger, p. 55). Reification is seen as projecting a sense of reality onto an abstract thing. Wenger (1998) suggests that "we project our meanings into the world and then we perceive them as existing in the world, as having a reality of their own," (p. 58) and he goes on to state that reification covers "a wide range of processes that include making, designing, representing, naming, encoding, and describing, as well as perceiving, interpreting, using, reusing, decoding, and recasting," (p. 59). In this view, participation and reification are not classifications or opposites: they are not implicit or explicit; they are not human and object, they are not informal and formal. Instead, participation and reification mutually constitute experience the practice of doing something with others mutually engaged. "Finally, the duality of participation and reification is not just a distinction between people and things. It is true that participation is something we do as persons, and reification has to do with objects. But the duality of participation and reification suggests precisely that, in terms of meaning, people and things cannot be defined independently of

each other," (p. 70). Going forward, the interplay between participation and reification as evidenced during the JTI training will be the focus of analysis.

Methods

This case study used qualitative data analysis methods including multiple data sources for triangulation (including interviews, surveys, training documents, focus groups, videos, judge evaluations, participant journals, literature, participant/observation), different data types (including historical accounts and real-time narratives), inter-rater reliability mechanisms (trainings, debriefs, shared data collection and analysis), participant checks (verbal conversations to confirm meaning), and two alternative approaches to analyzing text: the realist approach (e.g., interviews and journals represent some type of external reality, see Silverman, 2003), and the narrative approach (e.g., interviews and journals represent not reality, but rather plausible accounts of the world, Silverman, 2003).

This manuscript presents preliminary findings from the September, 2005 training session. Judge attendees (hereafter referred to as *participants*) to the training were informed about the study in advance, and were given a survey designed to capture general information about their perspectives and inclinations. (The survey is available upon request to the author). Instructors and seminar leaders, as well as noted experts in the field, were also notified in advance in order to promote interest and participation. The researcher obtained IRB approval from North Carolina State University, and all interview participants completed informed consent forms. The research team included the author (myself) and one graduate student who had extensive domestic violence advocate experience and who was enrolled in the Training and Development program at NCSU.

We collected data before and during the September training. Beginning in October, we will begin to collect after-session data. The data we collected before included all documents and publications distributed to judges by JTI, interviews with JTI education leaders and other experts, all past evaluations from previous training sessions, and the judge attendee surveys described above. At the September training session, we conducted more interviews, one focus group with the seminar leaders (these were judges who had previously attended a JTI training session and who volunteered to serve as leaders) and one with the instructors (these were judges trained as educators, domestic violence legal advocates (attorneys), social scientists with PhDs in relevant disciplines, and JTI education staff). We distributed journals to all seminar leaders, instructors, and staff to collect reflections during the six-day event (two days preparation, four days instruction). We recorded all scheduled instructor meetings during the training, conducted participation/observation data collection during the four days of instruction, and observed and recorded informal instructor problem solving sessions.

During the training sessions, the two researchers kept in regular contact and took turns collecting different types of data. A digital recorder was collecting audio data during all segments of the training (except for small group work embedded in the curriculum). At the end of each day the audio recordings were downloaded into a laptop for safekeeping, and the researchers kept track of their own thoughts and observations through conversation and note taking. The researchers often took notes during informal times including meals, ad hoc work group times, and other social get togethers.

By the end of the six day event, the researchers had collected over 8 hours of training audio, over 10 hours of interviews, four different curriculum documents, and 24 (out of the 38 attendees) participant surveys. While the analyses of these data continue, this manuscript presents the preliminary findings based on the pre-training interviews, the two focus groups, selected interviews, and the participant surveys. The process of analysis undertaken for this manuscript was an iterative process of reviewing source data (researcher notes and participant interviews) and uncovering the major themes and patterns in the data.

Findings

The findings presented here are limited to presenting information on how the JTI training session in September attempted to create new learning for judges through the dual processes of *participation* and *reification*. In other words, the analysis of 'learning' was narrowed to an exclusive focus on the role of meaning-making, which, in the COP literature, is a result of participation and reification. Future manuscripts will present a more holistic analysis of how learning occurred at the JTI training and include the COP aspects of community and learning.
Reification
The findings suggests that the JTI training session in September intentionally sought to create an environment that invited participants to understand legal codes, regulations, guidelines, and practices (e.g., artifacts) in a new way. In other words, the training contained modules that generated *new processes of reifying the artifacts of judicial practice*. This new way would potentially produce more positive outcomes for victims of domestic violence while

at the same time produce more positive outcomes for the court. The new process of reification emerged from peer-to-peer interactions during the modules; in other words, through *participation*. JTI attempted to create a learning environment where judges could learn from each other, where data and facts were presented in a balanced way by credible faculty, and where opposing or dissenting perspectives were intentionally surfaced and dealt with. The intense curriculum and peer-to-peer dialogue created a sense of community and shared engagement in problem solving and critical reflection. Except for small mini-lectures scattered throughout the four day curriculum, the learning was primarily a function of co-creating and co-participating in new ways of understanding artifacts. And, consequently, learning was not directed by judge instructors—no one had 'control' over what was ultimately going to be decided upon as an acceptable or unacceptable interpretation of an artifact.

The use and significance of judicial artifacts was a constant source of questioning, debate, and dialogue. For example, the curriculum materials contained numerous copies of legal codes, ethical standards, and regulations which participants used and re-used in different contexts, role plays, and court scenarios. The pedagogical techniques selected by JTI constantly required attendees to re-interpret the everyday artifacts used by the court, and then required attendees to critically reflect upon their use of the artifact. Many participants seemed to begin the training with the perspective that a code was a code, and there was one way to interpret it and therefore one way to act in compliance with it. However, it was the position of JTI experts and instructors (who themselves were judges) that these artifacts could be interpreted in multiple ways.

Participation

Consequently, participant observation and interview data suggested that a key characteristic of the training was to invite participants to understand and use artifacts in new and different ways, depending on context. Further, this invitation to see things differently had to come from a fellow judge; in other words, the learners participated in a community of practice with 'master' judges/instructors leading the way to new understandings. Over and over again, interview participants and instructor/judges affirmed that judges needed to 'teach' judges—the pedagogical techniques involved judge to judge interactions; the 'challenging assumptions' sections of the curriculum was led by judges; each table of participants was lead by an experienced judge who had previously attended the training; etc. Time was intentionally built in to the tight curriculum so that an instructor judge would always have 'the final word' about a topic. This technique provided another venue for instructor judges to summarize and restate the invitation for participants to interpret artifacts in a way beneficial for victims of domestic violence. JTI counted on the credibility that judges gave to each other as a tool to effectively invite critical reflection upon the meaning of the artifacts they used in their daily activities on the bench. Further, JTI intentionally sought to hire and train trainers to be adept at "disappearing" (word used in an interview) so that the learning would be seen as emerging from within, rather than transferring from without. In fact, one interviewee suggested that if a person couldn't 'let the learning be the only thing visible,' then they wouldn't be asked to teach.

To summarize, the central component of JTI's training session was to create an environment where participants could generate new understandings of the typical legal artifacts they use in their daily work on the bench. Curriculum materials, pedagogical techniques, participant observation, and interviews all confirmed that JTI's efforts were focused on 1) presenting balanced information about legal artifacts from judge instructor to judge participant; 2) surfacing resistance to viewing artifacts in a different light; 3) dealing with resistance through dialogue; and 4) allowing judges to learn from each other about the different possible meanings of legal artifacts.

Discussion

As indicated earlier, this manuscript explores one of the three aspects of practice as described in Wenger (1998), namely, the aspect of meaning as a part of judicial practice that emerges from the dual processes of *participation* and *reification*. Researchers interested in understanding how a thing emerges—be it learning, or decisions, or strategies, or goals—often find that the distinction between subject and object isn't relevant to their work. Researchers and 'the researched' are increasingly viewed as having some sort of relationship, and the relationship can be cooperative, collaborative, or a mix of both. Importantly, from this perspective, both sides of the relationship are valued, both sides represent legitimate interests and wants, and both sides should expect fair and ethical treatment from the other. My position in this spectrum lies somewhere between cooperative and collaborative—I get to decide which and how many of my skills to use on the project (cooperate) yet I don't decide the outcome of the project—the outcome is a result of a collaborative effort between me and my partners (e.g., 'the researched). I use what scientific skills I possess to make decisions that impact the quality of my research methods, but the outcome of those methods are co-created through collaborative work. I aspire to produce findings supported through accepted scientific methods that will contribute to the field of HRD, and I seek to contribute to the daily activities of my collaborators. Some people call this type of research feminist research (Ely & Meyerson, 2000; Calas and

Smirchich, 1993), because of the values and processes described above. I am taking a moment to discuss it here specifically because the topic of domestic violence, and consequently the JTI training on domestic violence, carries with it many overtones of power, privilege, and gender.

Conversations with judge participants confirmed to me that some were 'worried' about being exposed to radical feminist brainwashing at the training. Whether or not there was anything 'real' to worry about is not the point. The point is that the training content itself carried with it currents of ideology, cultural norms, and privilege. On top of that, and due to the current situation surrounding two new justices on the Supreme Court, the question of 'what should a judge do?' is now a part of public discourse. Consequently, JTI leaders, subject matter experts, and judge instructors seem to be totally and absolutely committed to two things: 1) to always present balanced information—to the extent that the instructors proactively seek to expose alternative perspectives; and 2) to always couch any new information in terms of how the new information would make judicial rulings more effective—if they did this (e.g., think of an artifact in a different way), then their practice would benefit by this (e.g., more efficient calendars, etc.)

As the days passed and judges, faculty, and staff interacted with me over time, the types of comments and information I collected seemed to indicate that people trusted me more with difficult and/or controversial information. A judge participant described her experience of being marginalized as a judge because she was a woman; another judge faculty shared that he could only participate if 'balanced' information was presented (implying that the training would be invalid if only one 'side' was presented). It seemed that there were two types of language being used during the JTI event: during the training sessions themselves, rational, logical evidence was produced and debated, and I did not hear the word feminist one time. During informal meetings and conversations, talk seemed to become less evidence-based and legalistic, and 'feminist' and 'feminism' were common topics of conversation between both male and female JTI leaders, staff, instructors, and subject matter experts. The fact that there were two discourses could be worthy of analysis in its own right, but I only mention them here to provide relevant contextual information about the case under study. This case contains currents of ideology, power, privilege, and gender; as a researcher I acknowledge these and, without minimizing their influence, attempt to focus the research on the actual learning processes that happen to participants as they attend the training.

Within this context, JTI and I wanted to understand more about how effective the training was, and what could be done to make it more effective. I followed accepted scientific steps to ground the research in appropriate scholarship, collect data, analyze data, and then produce reports (in progress). I narrowed the conceptual foundation onto Wenger's (1998) community of practice concept as a way to illuminate how COP can be used as an analytical tool to uncover more about how learning happens at their training sessions. I further narrowed this manuscript to one aspect of Wenger's COP—how people make meaning through work. While it may be theoretically impossible to separate learning, meaning, and community in the discussion of COPs, I break out meaning here as an analytical exercise only. I acknowledge that the meaning making of judges was embedded in a larger community and that all three aspects of Wenger's (1998) theory must work together.

As described in the findings, the judges undergoing training at the JTI event were presented with the 'tools of their trade' and asked to use them during defined portions of the curriculum. During the training, the judges were practicing using these tools in role plays, scenarios, problem solving exercises, and discussions. As they used these tools, the JTI instructors (judges) showed them how the same tools could be used differently with positive benefits for the victims of domestic violence as well as the court. JTI instructors proactively surfaced resistance to using these tools differently, and sought to produce convincing evidence and logic to support the new way of using the tool.

These tools, as described earlier, are considered artifacts. Wenger (1998) argues that by *using*, or *practicing with* artifacts, the artifacts themselves come to mean something different to the practitioner. This new meaning is a result of the interplay between participation and reification, the two components identified by Wenger's (1998) work on communities of practice. The artifacts come to assume some type of concrete reality in practitioner's heads: people reify artifacts to make sense of what the things are. Reification allows people give an abstract thing some concrete reality: a good example is 'the economy.' People have beliefs about the economy, they have theories about the economy, and sometimes they adjust their behavior as a result of the economy. 'The economy' is an abstract concept that impacts people's lives.

For the JTI training, the artifacts that were reified by judges were the tools of their trade: the legal rulings, the codes of conduct, the precedents, the court system, to name a few. Some judges, for example, understood that the ethical code of conduct precluded them from speaking to community groups about domestic violence (this is an example from a real session). These judges made sense of the code in a certain way: they believed that the ethical code prevented them from speaking. Other judges in the group (participants and instructors) had a different understanding of that same ethical code: one of these judges told a story about how he had called the professional board responsible for maintaining ethical standards to find out what he could and could not speak about. The

standards board gave him information and interpretations on the rules of ethical conduct, and as a consequence the judge was able to speak in the community with a couple slight changes in the program (e.g., opening up the meeting to both prosecutors and defense attorneys, for example; or changing the name of a meeting to reflect a balanced view). Further, another judge disclosed that she had done research on the interpretations of the ethics boards and found out that no judge has ever been penalized for taking the advice of the boards. This example of creating an environment where different meanings of an ethical ruling could surface illustrates a consistent pattern in the curriculum of JTI. Over and over, the curriculum brought to life the abstract artifacts of the daily work of judges, and JTI created the conditions where the use and meaning of the artifact could be examined and possibly changed.

The JTI training included 'using' certain other tools embedded in the daily practice of judging that would make the biggest difference in the judicial system as it dealt with domestic violence cases. The curriculum focused on key rulings and codes of conduct and presented a variety of different ways for the judge participants to engage and 'use' the tools. When the judges were 'using' the tools (e.g., using a ruling to justify a decision, or interpreting a code of conduct to justify speaking to a community group), the judges were practicing their craft and learning about how to use the tool differently. Over time, the attendees displayed more willingness to explain their point of view and contribute diverse perspectives on the different meanings of tools. The training at JTI seemed to create a positive environment for judge to judge dialogue and debate, and by the end of the four day session the attendees appeared willing and comfortable with critical reflection. This willingness evident in the energy of the classroom even in the last hour of the last day. It was also indicated to me by a judge, as he boarded the elevator at the end of the third day and saw me saying "it's a lot of stuff here…." he commented as the elevator door closed. "uh huh….are you overwhelmed?" I said. "No, I just wish there was more time to go over it all…" He could easily have taken the position that there was 'too much' stuff; instead, he seemed to want more time to think about and work on the issues being raised during the training.

Wenger (1998) asserted that *practice* and *reification* (see table 1) are the two processes that work together to give meaning. From the description of the training above, it is evident that the JTI training created a variety of situations for judges to practice their craft (e.g., engage in problem solving, evidence collecting, and ruling) and reify their artifacts (e.g., give meaning to the tools of their trade). During discussions, the judges were given a chance to justify their decisions, which, in turn, exposed how they interpreted or gave meaning to a tool. Peer judges and judge/instructors were then given a chance to describe alternative interpretations or meanings. These alternative interpretations and meanings were openly debated, and at the end of each session a judge/instructor would summarize and 'build a case' using logic and evidence for a particular meaning or interpretation.

The process of 'learning' throughout the training was consequently generated by the participation and reification of the judge participants themselves. Each participant had an individual understanding of how to use a tool, or what a tool meant in her practice, and during the training the participants were given the chance to analyze different uses and meanings. The instructors were more like shepherds than teachers or facilitators; the instructors attempted to shepherd the participants into an area of new understanding that would result in better and more effective rulings for victims of domestic violence. This shepherding meant that the instructors had no real control over the learning outcomes of each participant, and that any learning that was accomplished was generated by individual participation and reification while using the tools of the trade.

Limitations

The case study presented here is exploratory and descriptive, and provides one way to understand how learning happens at a JTI training event. Consequently, the findings have a defined use that does not include generalization nor an implication of causation. The findings are preliminary, due to the fact that only a limited amount of data was analyzed for this manuscript. The findings may be amended based upon subsequent analysis. Finally, this manuscript presented one aspect of communities of practice—the *meaning* aspect accomplished through participation and reification—as an exercise to demonstrate how the COP literature can inform our understanding of peer to peer learning through practice. It is doubtful whether or not it is conceptually possible to separate out one aspect of communities of practice, since the COP literature presents the three aspects (community, learning, and meaning) as wholly integrated and mutually reinforcing. Consequently, to disengage one aspect from the other two may oversimplify the complexities of COPs. I suggest that readers interested in learning more about COPs review Wenger (1998) in its entirety.

Conclusions and Implications for HRD

Learning is often seen as distinguished from performance in the HRD literature (Swanson, 1994; Kuchinke, 2000). However, scholarship like Wenger's (1998), Lave and Wenger (1991), and Wenger, McDermott, and Snyder (2002) on communities of practice and situated learning, and Watkins and Marsick (1995, 1997), and Marsick and Watkins (1990), on the learning organization, contribute towards a more holistic understanding about the connections between learning and doing, or learning and performance. It may be more fruitful to consider learning as intricately connected to performance as living is to breathing; you can't have one without the other. Framed this way, learning is not an analytical concept that can be taken out of context, nor can it be relegated to a lesser 'status' than performance.

On a more practical level, this study presented preliminary findings from an exploratory case study that sought to understand more about how judges learned at a specific training. Based on the context of the training, and combined with the intent of the collaborators (e.g., JTI instructors), the learning strategies, tactics, and curriculum were viewed as setting the stage for potential learning to happen—whether or not it did, or the degree to which it did, was uncontrollable. Individual judge participants (e.g., learners) were exposed to alternative perspectives and viewpoints, and logical, evidence-based reasoning was used in dialogue and discussion. The learning strategies employed by JTI could be viewed as exemplar by HRD practitioners who are challenged with 'training' or 'educating' senior-level, powerful, and oftentimes isolated individuals. This population of learners require specialized pedagogical strategies, many of which JTI uses effectively and are described here. This study also suggests that it may be helpful to incorporate contextual issues (such as power, gender, and privilege) into studies relevant to HRD, especially since learners are becoming more autonomous in performing and learning at work.

References

Baker, P. (2005). Alito's nomination sets stage for ideological battle. *Washington Post,* pp. A01, 11/1/05.

Bierema, L.L., and Cseh, M. (2003). Evaluating AHRD research using a feminist research framework. *Human Resource Development Quarterly, 14,* 1, 5-26.

Contu, A., & Willmott, H. (2003). Re-embedding situatedness: The importance of power relations in learning theory. *Organization Science, 14,* 3, 283-296.

Cook, S.D.N. and Brown, J. S. (1999). Bridging epistemologies: The generative dance between organizational knowledge and organizational knowing. *Organization Science, 10,* 4, 381-400.

Deem, R. (2002). Talking to manager-academics: Methodological dilemmas and feminist research strategies. *Sociology, 36,* 4, 835-855.

Freire, P. (1993). *Pedagogy of the oppressed: New revised 20th-anniversity edition.* New York: Continuum.

Kuchinke, K. P. (2000). Debates over the nature of HRD: An institutional theory perspective. *Human Resource Development International, 3*(3), 279-283.

Lave, J. & Wenger, E. (1991). *Situated learning: Legitimate peripheral participation.* New York: Cambridge University Press.

Lave, J. (1988). *Cognition in practice: Mind, mathematics, and culture in everyday life.* New York: Cambridge University Press.

Marsick, V. J., & Watkins, K. E. (1990). *Informal and incidental learning in the workplace.* London: Routledge.

Marsick, V. J., & Watkins, K. E. (1997). Lessons from informal and incidental learning. In J. Burgone, & M. Reynolds (Eds.) *Management learning: Integrating perspectives in theory and practice* (295-311). Thousand Oaks, CA: Sage.

NARAL, 2005. Retrieved November 13, 2005, from http://www.factcheck.org/article340.html.

Swanson, R. A. (1994). *Analysis for improving performance: Tools for diagnosing organizations and documenting workplace expertise.* San Francisco: Jossey-Bass

Watkins, K. E. & Marsick, V. J. (1993). *Sculpting the learning organization.* San Francisco: Jossey-Bass.

Watson, G. (2005). Retrieved November 13, 2005, from http://partners.is.asu.edu/~george/vacancy/index.html

Wenger, E. (1998). *Communities of practice: Learning, meaning, and identity.* New York: Cambridge University Press.

Wenger, E., McDermott, R., & Snyder, W. M. (2002). *Cultivating communities of practice: A guide to managing knowledge.* Boston: Harvard Business School Press.

University of Michigan Law Library, (2005). Retrieved November 13, 2005, from. http://www.law.umich.edu/library/news/ topics/alito/alitoindex.htm.