"OF COURSE HALF THE INFORMATION IS ENOUGH!"

I teach torts to our 1L classes. In the exam I gave last fall, I posed a NextGen bar exam style question in which I invented a criminal statute relevant to the fact scenario and summarized the statute in about one sentence. However, I never gave my students the text of the statute. The text of the statute wasn't necessary to my question. The question simply asked by what legal standard a court would measure the statute to determine if the statute set a standard of care in a civil negligence case. Ah, yes! That old chestnut. Negligence per se. The question was an easy one on my exam—give me the precise three elements of the negligence per se standard and snag a small quantum of points. I expected most students to do very well on this and most did. What I didn't expect were the students who, without even possessing the text of the statute, went so far as to offer an opinion on whether the statute actually *did* set the standard of care. You know. The statute they didn't even have in front of them. The silver lining is the teachable moment I get to have with my students about what it means to be a good lawyer. A simple rule: lawyers don't offer opinions on statutes they haven't read or even seen. But it's the entire sum of these little steps up the mountain that better prepares us to take on clients, right? I find this sort of naivety mildly charming in 1Ls, so long as I don't later see it in them as 3Ls.

Lest we think only fledgling 1Ls are bold in the face of inadequate information, the featured experiment for this month's blog brings us crashing down to the humbling dirt beneath our feet of clay. In this study, the researchers sought to test the confidence of decision-makers by purposefully depriving them of the opposing point of view before asking them to make a decision. The background information was specifically chosen to avoid hot-button issues. Subjects would read about a regional water shortage and how two public schools were considering a merger to cope with the shortage. The control group received three arguments describing the benefits of school merger, three arguments giving the benefits of staying separate, and one neutral argument. However, the two test groups were specifically deprived of opposing arguments. Thus, the pro-merger group received the three arguments for school merger and the one neutral argument, and the pro-separate-schools test group received the three arguments for keeping the schools separate as well as the same neutral argument.[1]

Once all groups read their respective batches of arguments, they had to make a firm decision on the problem: in the face of a water shortage, merge the two schools or keep them operating separately. Among other things tested, researchers then asked survey questions of the groups to determine whether they thought they had a sufficient quantity of information to make a decision, whether they felt competent to make a decision, and whether they thought others would reach the same conclusion on this merge-or-stay-separate question.[2]

As we often do in this blog, we come to the soft, vulnerable underbelly of human cognition. First, even though the two test groups possessed half of the information of the control group, both groups reported above-average confidence in having sufficient information.[3] And with only half the argument, both test groups matched the confidence levels of the well-versed control group when asked about their competency to make the decision.[4] Finally, the test groups largely believed that a majority of other people would reach the same decision on the question as they made.[5]

Oof. That all stings a bit, doesn't it. It gets worse.

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[1] Hunter Gehlbach, Carly D. Robinson & Amanda Fletcher, *The Illusion of Information Adequacy*, 19 PLOS ONE e0310216, 3 (2024), https://doi.org/10.1371/journal.pone.0310216

[2] *Id*.

[3] *Id*. at 6.

[4] *Id*.

[5] *Id*.

The researchers also asked ***all*** the groups how confident they were that they made the correct decision. Despite the test groups each obviously having no arguments in opposition to the merge or stay-separate arguments that they *did* have, the test groups' participants reported being "confident" in their decision to merge or stay separate.[6] Still not bad enough? The test groups' "participants reported significantly greater initial confidence [in their decision] than [those in the control group]."[7] Let me put that in other words: The folks who clearly had only half of an argument in front of them reported feeling more confident in their decision than the folks who had both sides of the argument.

And there it is. The "illusion of information adequacy" as the researchers call it.[8] It all becomes slightly more terrifying when we consider that our internet browsers and social media platforms are strategically engineered to funnel our preferred views and voices into our eyes and ears. As if it weren't bad enough that our brains already fill us with a false sense of informational confidence! When I think about how to apply this to my own life and to my classrooms, I wonder if learning about the illusion of informational adequacy accomplishes the same thing as learning how to be humble in the face of *whatever* information we happen to have. Perhaps that's a discussion for another day. With what little information I have in front of me now, I'm just going to confidently decide those two things are separate and do not automatically merge.

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[6] *Id*. at 8.
[7] *Id*.
[8] *Id*. at 1.