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“A part to play”: the value of role-play simulation in undergraduate legal education

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This paper explores the argument for increased student participation in experiential learning approaches within the UK undergraduate law curriculum. It is supported by the findings of a very small-scale research study undertaken by the writer into law students’ perceptions of the efficacy of role-play simulation as a means of studying mediation, in an optional credit-based module within the final year of a UK undergraduate qualifying law degree¹. In order to provide situational context, the first part of this paper will briefly address the experiential learning possibilities for undergraduate law students, a discussion of the study involving qualitative research methodology, which was used to demonstrate that role-play simulation as a method of experiential learning has a place within the UK undergraduate law curriculum. The final part of this paper will consider the findings of the study which demonstrated that, inter alia, role-play simulation can be motivational, helps to build student confidence, enables deeper learning, assists graduate skills acquisition and arguably enhances employability. Based on the findings of this study and other empirical evidence, the paper suggests that greater emphasis could be placed on experiential approaches such as role-play simulation for credit-based law courses, including those “core” foundational courses which form part of the undergraduate qualifying law degree in the UK, but achievement of this aspiration is not without its challenges.

Introduction

For some time now experiential learning in its various forms has been a part of many law schools’ curricula in the United States, Canada and Australia, where law is predominantly studied at graduate level. The teaching and learning approach has also gained momentum in UK law schools; it is not uncommon at postgraduate level (BPTC and LPC),² has been incorporated in many different ways within the undergraduate LLB curriculum too and in some cases linked to credit-based

¹ The study was entitled “An Investigation into Law Students’ Perceptions of the Efficacy of Role-play Simulation as a Means of Studying Mediation”, submitted by Ben Waters as a dissertation for the final stage of a Masters Degree in Education 2012.

² Aspiring “lawyers” in the UK study law as an undergraduate degree during the academic stage of their training. The UK retains a dual legal profession and students proposing to qualify as lawyers then pursue the practical or vocational part of their legal training and will choose either the Bar Practice Training Course, if they wish to be Barristers, or the Legal Practice Course, if they wish to be Solicitors. The final professional stage of a lawyer’s training in the UK requires them to successfully complete a two year training contract to qualify as a Solicitor or a one year pupillage to qualify as a Barrister.

assessment.³ Research is currently being undertaken into the use of and engagement with clinical legal education in UK Law Schools.⁴

This article briefly examines the landscape of experiential learning within the UK undergraduate law curriculum, the value of role-play simulation in the learning process, the rationale behind a very small-scale empirical research study undertaken by writer, its methodology and the study's outcomes from which it will be proposed to advance the notion that experiential learning does not have to be "real-time" for students to learn experientially.⁵ Furthermore, a case is made for role-play simulation to be considered as an effective substitute where the constraints of other experiential learning approaches, perhaps due to institutional culture, staffing availability or on the grounds of cost, can prohibit or limit experiential learning theory (ELT) engagement.

Experiential learning; the opportunities available in legal education

Those who have been involved in developing experiential learning opportunities within law schools will be aware that it can be implemented in many different ways. The approach may be delivered effectively through work-based learning, placements/internships, community-based projects/individual studies, 'live clinics', problem-based learning strategies and observations.⁶ However some law graduates wanting to enter the UK legal profession will only encounter a court room for instance for the first time when they enter practice. Why leave it until the training contract or pupillage for students to experience aspects of the professional world for real?

Role-play simulation exercises are arguably an effective way of engaging students in the experiential learning paradigm which has been defined by Kolb as "the process whereby knowledge is created through the transformation of experience."⁷ The participant is placed in an assigned role within a specific situation and they are challenged to find ways to address the issues presented and consequences that can follow from various courses of action.⁸ The method is based on role-theory where participants adopt assumed positions and interact in a simulated life situation. This occurs for some educational purpose, usually under the guidance of the person with academic responsibility. The interaction is spontaneous and at its conclusion there is an opportunity for discussion.⁹ Simulations are based on case-studies or scenarios, and include role-play and activity, often collaborative, in an authentic environment

³ The Law Clinic at the University of Kent, UK for instance was established during the 1970s but does not provide academic credit for students' participation. The Law School at the University of York, UK however centres its whole undergraduate LLB curriculum on credit bearing problem-based learning.

⁴ At the time of writing the LawWorks Pro Bono Law Schools Survey 2013 is awaited and will shortly be published.

⁵ *Supra*, n. 1.

⁶ This is by no means intended to be an exhaustive list and the reader may be aware of other examples of the practical application of experiential learning theory.

⁷ Kolb, D, (1984), *Experiential Learning; Experience as a Source of Learning and Development*, (Prentice Hall: New Jersey), p 41.

⁸ Susskind L, & Coburn J, (2000) *Using Simulations to Teach Negotiation: Pedagogical Theory and Practice in Teaching Negotiation: Ideas and Innovations*, Ed. by Wheeler M. Program on Negotiation at Harvard Law School (Cambridge, MA).

⁹ Milroy E, (1982), *Role-play a Practical Guide*, (Aberdeen University Press: Aberdeen).

that in some way or other reconstructs aspects of real-life tasks.¹⁰ The typical educational simulation exercise has five parameters; these are the goals of the simulation, the roles of the participants, the relationship among the participants, the rules governing the relationships, and the criteria for determining when goals are achieved.¹¹ In designing the role-play scenarios the writer will, as facilitator of these learning approaches, always have in mind these criteria and good preparation is crucial.

Traditional educational theory is as equally relevant to the learning of legal skills as the learning of “black letter law”. A view supported by Kift who makes a very interesting point about the relevance of Bloom’s theory on learning objectives in relation to the learning of legal skills.¹² The three domains forming Bloom’s taxonomy are the cognitive (thinking/knowledge), the affective (feelings/attitude) and the psychomotor (doing/skills).¹³ The third of which Kift points out has traditionally held no place within higher education undergraduate academic curriculum but is, she argues, intuitively the domain which seemingly bears a very close relationship to the learning of skills.¹⁴

Theoretical frameworks are arguably necessary as a foundation for a legal skills based curriculum and this is a prerequisite for a holistic legal education curriculum to be successfully implemented at undergraduate level. Carter supports this when suggesting that the acquisition of a skill may be made much easier by a greater theoretical grasp of the subject proficiency and can only be attained through diligent practice, evaluation and feedback.¹⁵ This lends support to the argument that in the context of undergraduate legal education, the Bloomian psychomotor domain is closely aligned with legal skills acquisition. Whilst Bloom did not fully complete his work on this third domain, others have contributed to the body of work in this area. For instance Anita Harrow developed the notion of non-discursive communication objectives, of which refer to expressive movements through posture, gestures, and facial expressions, and which have relevance to the acquisition of mediation skills. Such expressive movements refer to interpretative engagements that communicate meaning without the aid of verbal commands or help, skills which students should be able to develop as part of the practical application of their theoretical understanding of dispute resolution through both negotiation and mediation role-play simulation.¹⁶

¹⁰ The Mediation Clinic at Canterbury Christ Church University has provided some very useful material from mediations which it has undertaken. These have been used to design and construct role-play scenarios for students to participate in during class. Basing simulations on “real life” situations helps to bring the learning process alive. The assessment of practical elements of the module has also used performing arts students in an attempt to make the simulated scenario more “real”.

¹¹ Ferber P, *Adult Learning Theory and Simulations; Designing Simulations to Educate Lawyers*, 9 *Clinical L. Rev.* 417, 2002-3.

¹² Kift, S. (1997) “Lawyering Skills: Finding Their Place in Legal Education,” *Legal Education Review*, vol. 8, no. 1, 44.

¹³ *Ibid*, 45.

¹⁴ *Ibid*, 46.

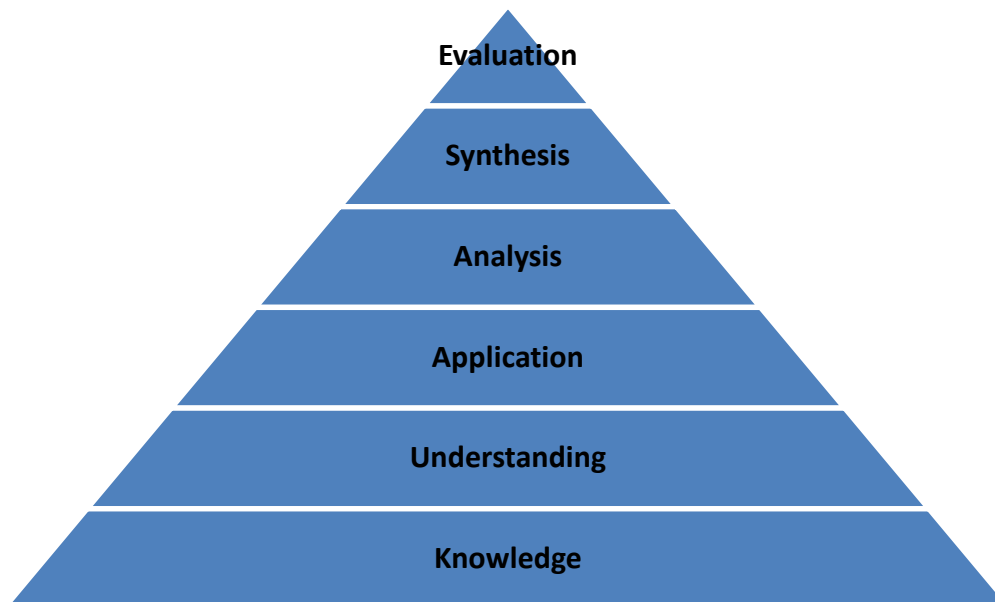
¹⁵ Carter, R. A *Taxonomy of Objectives for Professional Education*, (1985) 10 *Stud Higher Educ* 135, at 137.

¹⁶ Harrow, A. (1972) *A Taxonomy of Psychomotor Domain: A Guide for Developing Behavioral Objectives*. New York: David McKay at Leslie Owen Wilson <http://thesecondprinciple.com/instructional-design/threedomainsoflearning/> (accessed on 3rd November 2014), see also the work of Simpson, E. “Educational Objectives in the Psychomotor Domain.” *Behavioural Objectives in Curriculum Development: Selected Readings and Bibliography* (1971): 60, and Simpson, E. (1972), *The Classification Of Educational Objectives in the Psychomotor Domain: The Psychomotor Domain*. Vol. 3. Washington, DC: Gryphon House. Also consider the work of Dave, notably Dave R. H. (1970) “Psychomotor Levels.” in *Developing and Writing Behavioural Objectives*, ed. Robert J. Armstrong. Tucson AZ: Educational Innovators Press.

Whilst there is existing academic argument and empiricism to support extending clinics far beyond the realms of simulation in order to integrate theory with practice, there has been clear acknowledgement from law schools about the positive role that simulation can play within the undergraduate legal education arena in helping to fulfil the graduate skills acquisition agenda.¹⁷

If this view is to be adopted, then there is surely a case to be made for including such experiential learning and teaching approaches in undergraduate legal education as role-play simulation, the topic which provides the focus for this paper. Bloom's taxonomy is reproduced in figure 1 below.¹⁸

Figure 1
A Diagrammatic Summary of Bloom's Taxonomy



The value of role-play

Single teaching methodology such as the 'chalk and talk' approach can become monotonous, a view supported by Vaughn who, some twenty years ago, was using role-play simulation to teach first year civil procedure to graduate law students at the Washington College of Law. From his own experiences Vaughn observed that through simulated exercises his students were able to learn to cooperate with each other and better make the connection between theoretical principles and practice, it also permitted the examination of ethical principles in a specific rather than an

¹⁷ See Hall J, and Kerrigan K, *Clinic And The Wider Law Curriculum*, 16 Int'l J. Clinical Legal Educ. 25 (2011), who believe that simulated activities, if they are well designed and implemented intelligently as part of an integrated learning package, can go a long way to breaking down the artificial distinction between the theory and practice of law. These forward thinking advocates and implementers of clinical legal education within undergraduate legal education in the UK, believe that simulated activities have an important place in the encouragement of a more holistic view of the study of law. Also available at <http://www.ukcle.ac.uk/resources/teaching-and-learning-practices/can-the-traditional/> (Accessed on 1st May 2014).

¹⁸ Bloom B S, Hastings J T, Madaus G F, (1971) *Handbook on Formative and Summative Evaluation of Student Learning*, (McGraw-Hill: New York).

abstract way.¹⁹ Research has shown that students do respond favourably to role-play simulation and in some circumstances prefer simulation-based projects over traditional classroom methods.²⁰

Within many different and varied subject disciplines and at various stages during the education process, active as opposed to passive learning approaches, can achieve the ability to bridge theory and practice and this has been tested through role-play simulation with favourable results.²¹ The field of nursing has used role-play simulation for many years and can bear witness to its value in contributing to clinical reasoning as well as constructing the link between theory and practice very effectively.²² There is also evidence that simulation can promote deeper learning of the subject matter,²³ can help motivate students to learn the curriculum²⁴ and can have a positive impact on increasing students' overall confidence.²⁵ Through careful planning, management and implementation, this approach to learning and teaching can also encourage reflection on learning.²⁶

There is a case to be made for some of the basic and transferable skills which will be used by law graduates when they enter practice (and by many others who do not enter the legal profession), such as interviewing skills, counselling and negotiating, to be included within the core curriculum at undergraduate level. All of which can help students develop a sense of the elements of lawyering that extend beyond pure doctrinal legal reasoning and analysis.²⁷ Such disciplined skills can be effectively

¹⁹ Vaughn R G, *Use of Simulation in First-Year Civil Procedure Class*, Journal of Legal Education, Volume 45, Number 4 (December 1995). See also Barton K, Mckellar P & Maharg P, *Authentic Fictions: Simulation, Professionalism and Legal Learning*, 14 *Clinical L. Rev.* 143 (2007), in which they discuss the Carnegie Report and the need for simulation in law school curriculum. Their views are based on experiences of the effects of simulation upon a professional learning curriculum, the Scottish Diploma in Legal Practice at the Glasgow Graduate School of Law, and the positive part that authenticity plays in simulation exercises.

²⁰ See research undertaken by Maharg P, & Li E, *A Unique, Simulation-based Approach to Providing Students with Practical Legal Experience*, Georgia State Law: International Conference on the Future of Legal Education, Feb. 20, 2008, [http://law.gsu.edu/futureoflegaleducation/Conference/Program\(Final\).php](http://law.gsu.edu/futureoflegaleducation/Conference/Program(Final).php), in which they summarise simulation tools used on the Scottish Law Graduate Diploma course at the Glasgow Graduate School of Law. Whilst this is a graduate level course and is studied after the LLB stage, there is perhaps a case to be made for including such approaches in the undergraduate curriculum.

²¹ See Druckman D, *Frameworks, Cases, and Experiments: Bridging Theory with Practice*, International Negotiation 15 (2010) 163-186, which focused on a postgraduate course taught at (among other places) the George Mason's Department of Public and International Affairs, which included exercises ranging from everyday bilateral negotiations over familiar issues to more complex multilateral talks about matters of a nation's foreign policy, and included experience with electronic negotiation and mediation. Druckman suggests that lessons learned from discussions following the exercises are intended to strengthen the students' skills as analysts, strategists, and performers. Druckman further maintains that the movement from theory to practice and back to theory, illustrated by this kind of curriculum design, illuminates the theme of bridging theory with practice. With particular reference to mediation and negotiation pedagogy, see Druckman D, and Hopmann P, (1989) "*Behavioural Aspects of Negotiations on Mutual Security*," in Tetlock P, et. al. Editors, *Behavior, Society, and Nuclear War*, (New York: OUP); see also Hall J and Kerrigan K *supra* n. 16, p 9.

²² Freeth D, and Parker P, in Fry H, Ketteridge S, & Marshall S, (2006), *A Handbook for Teaching & Learning in Higher Education*, (Routledge: London) p 333.

²³ See Mikkelsen et al., *Nursing Students' Learning of Managing Cross Infections: Scenario-Based Simulation Training Versus Study Groups*, Nurse Education Today, 28 (2008), pp. 664-671, whose research on scenario-based simulation training for nursing students in Norway is reviewed by Ricketts B, "*The Role of Simulation for Learning Within Pre-Registration Nursing Education: A Literature Review*." Nurse Education Today, 31.7 (2011): 650-654.

²⁴ See Van Ments M, (1999), *The Effective Use of Role-Play: Practical Techniques for Improving Learning*, (Kogan Page: London), who contend that role-play can be highly motivating, providing students with direct and rapid feedback on the effects of their actions.

²⁵ Druckman D, and Ebner N, "*Simulation: Learning through Role Playing and Design*", The Encyclopaedia of Peace Psychology (2012), make the point that role-play simulation has been used effectively for teaching both negotiation and mediation and consider that participating learning and teaching approaches enhances self-awareness and self-confidence.

²⁶ See Feather A, & Fry H, *Key Aspects of Teaching and Learning in Medicine and Dentistry*, in Freeth D, et. al. *supra* n. 21.

²⁷ Bennett S. C. "*When Will Law School Change*." Neb. L. Rev. 89 (2010): 87. The teaching of dispute resolution and particularly negotiation has traditionally lent itself quite naturally to the use of simulated role-play activities, see Andrew, J & Meligrana, J, *Evaluating the Use of Role Playing Simulations in Teaching Negotiation Skills to University Students*, Creative Education, Oct 2012, Vol. 3, Issue 6, who concluded from a small-scale study of Masters level graduate students on a short negotiation course

acquired through situational role-play simulation. Findings of a small-scale study undertaken at RMIT which focussed on blended learning approaches to legal education including role-play simulation, discovered that legal practice simulations provide opportunities for students to experience the application of legal theory in situations designed to replicate legal practice.²⁸

Where there are limited or no opportunities to provide real client experiences, the use and value of role-play simulation can offer an authentic substitute if planned carefully and implemented thoughtfully. Carefully constructed simulation exercises can reproduce some very authentic situations which replicate many of the factual situations to be confronted in the 'real world' and this can be done in an environment which promotes 'safe lawyering'.²⁹ In the same way that simulation when used in nursing enables learning to occur without risk to patients where students can afford to make mistakes and learn from them.³⁰ It should be acknowledged of course that whilst recognising the value of role-play simulation, in many educational settings it is generally considered to be a preliminary to, and not a substitute for, clinical opportunities with real life situations.³¹

It is against this background and with these views in mind that role-play simulation continues to be used to assist the teaching of mediation at undergraduate level within the writer's law school.

The situational context and rationale for the research

Lord Justice Jackson's 2010 review into civil litigation costs³² promotes the use of alternative dispute resolution (ADR) and particularly mediation as a process for resolving civil disputes. The requirement that lawyers should advise their clients about a range of dispute resolution options, not just litigation, is also now firmly embedded within the Solicitors' Code of Practice. Given the ethical implications of this, a holistic approach to understanding dispute resolution should now be a fundamental part of a UK lawyer's education. This is also evidenced through developments which have taken place in the approach to how civil disputes should be, and are currently being resolved.

It is therefore strongly arguable that mediation is an important aspect of legal education and should be situated within the core curriculum of all qualifying law degrees in the UK. This has long been argued and, to a great extent, adopted in the United States where the broad approach to the learning of dispute resolution

at the School of Urban and Regional Planning, Queen's University, Kingston, Canada, that role-play can be very effective for teaching negotiation skills, for preparing students to manage actual conflicts skilfully and to participate effectively in real ADR processes. See also Druckman D. & Ebner N. (2008), *'Onstage or Behind the Scenes? Relative Learning Benefits of Simulation Role-Play and Design'*, *Simulation and Gaming*, 39(4), pp. 465-496; and *supra* n. 20; see further Susskind L, & Coburn J, *supra* n. 8, (2000) and Williams G. R, *Using Simulation for Teaching Negotiation*, 34 *J. Legal Education*, 313, 1984.

²⁸ Kam, L, et al. *"Get Real! A Case Study of Authentic Learning Activities in Legal Education."* *Murdoch University Law Review*, 19.2, (2013): 17-32, the study was undertaken at the Royal Melbourne Institute of Technology.

²⁹ Brayne H, Duncan N, and Grimes R, (1998), *Clinical Legal Education: Active Learning in Your Law School*, (Blackstone: London) p 185; see also Kam et. al. *supra* n. 27 and Barton et. al. *supra* n. 18 on authenticity.

³⁰ Freeth D, and Parker P, in Fry H, et. al. *supra* n. 22, p 333.

³¹ See Feather A, & Fry H, *ibid*, *supra* n. 22, p 372, who consider this in the context of 'real' medical and dental patients.

³² See Jackson R, Lord Justice, (2011), *Review of Civil Litigation Costs Final Report Implementation of Recommendation 29*. Available at <http://www.judiciary.gov.uk/publications-and-reports>, (Last accessed 14.02.13).

processes has been supported for many years.³³ The predominate method of learning about this at undergraduate level within UK law schools, has traditionally been through the medium of lectures with reference to mediation as a theoretical process without any in-depth study of its theory or practice. It has traditionally been the province of the “trainer” in a non-academic environment to use a skills-based approach in order to train mediators. There has seemingly never really been an inclination or an attempt to make the link between the theory and practice of mediation in any educational setting.

The writer designed a final year undergraduate law-based optional course called Civil and Commercial Mediation (CCM). During the first year of delivery 10 students enrolled on the course. Each course forms a 20 credit assessed component of a 360 credit undergraduate qualifying law degree, with each course requiring a minimum of 40 hours of teaching time. In contrast to the predominant pedagogical approaches utilised on the law degree at the writer’s Law School a significant proportion of the teaching hours on the CCM module included role-play simulation.

The writer engaged in a small-scale study which involved a situational investigation into law students’ perceptions of the efficacy of role-play simulation as a means of studying mediation through the use of qualitative research methodology. The study took place over a 10 week period whilst the CCM course was being delivered and all students agreed to participate. The study’s findings are arguably pertinent and have the potential for useful application to, and some relevance for, other areas of the undergraduate law curriculum both within the institution where this study took place and for others.

Role-play scenarios have been developed from real life mediation cases conducted by the University’s Mediation Clinic.³⁴ This provides authenticity and enables students to experience the kind of “real world” disputes that exist and through role-playing a particular “real life” scenario for example, outcomes can be compared with those of the original dispute’.

Methodology

The methods used in the study included; observations, interviews, focus groups and a review of the participants’ reflective journals which the enrolled students were required to complete as part of their credit-based assessment. The focus groups and semi-structured interviews were transcribed, hand-written observation notes were made and the participants’ reflective journals were carefully scrutinised and data extrapolated.

A broad multi-faceted approach to the research methodology was chosen in order to try to balance the various methods and provide as much as possible a reliable source

³³ See generally the views of Menkel-Meadow C, *To Solve Problems Not to Make Them: Integrating ADR in the Law School Curriculum*, (1995) 46 (5) SMU Law Review, 1995: a response to Fisher R. and Jackson W’s, *Teaching the Skills of Settlement*, 46 SMU L. Rev. 1985 (1993), as an indicator that the learning of dispute resolution has been evident in Law Schools in the United States for some time now, although at the time Menkel-Meadow considered that there was a case to be made for it to be more widely taught.

³⁴ All scenarios used were adapted and anonymised for purposes of confidentiality.

of data from a small group of participants. For instance each methodological approach to research has its perceived advantages and disadvantages. By acknowledging the most appropriate components of each method and conversely by having an awareness of the varying levels of criticism aimed at each method as identified by a range of researchers and research commentators, it is argued that a very much more balanced and accurate body of data was gathered than if just one research instrument had been used.

The same set of questions was used for both the semi-structured interviews and the focus groups. Each focus group or interview commenced with general questions which were designed to explore how students found the role-plays in which they participated and whether they thought it was harder to take some roles than others, what their views were on the usefulness of the scripts and how their feelings about the role-play evolved over the sessions. **All but one student participated.** Aspects of deeper learning theory³⁵ were explored through further questioning, in terms of how the participants considered the role-plays as assisting their understanding of the theoretical aspects of the subject, the perceived barriers to this approach to learning and teaching and how close to reality they considered the role-plays to be, were all areas of exploration. Leading on from that, participants were asked how they might organise the teaching and learning approach differently if they assumed academic responsibility. The role of reflection in learning was explored with the participants, particularly with regard to what part they felt their journal played and their thoughts on the perceived usefulness of feedback gauged. Through additional questioning, participants were required to think about what may have been surprising to them from studying experientially.

There were some supplementary questions about what strengths the participants felt they brought to mediation; these attempted to determine their unconscious competencies.³⁶ Participants were asked to consider what strengths they made use of intentionally and whether or not they felt that they were successful in so doing. Overall participants were asked to think about their role-play experiences, what they thought they had learned from them, and from whom, the importance of what was learned and how they intended to apply what they learned in their role-play experiences not only in their future work but also in their personal lives, as the kind of skills acquired through the role-play simulation aspect of the module are arguably not just applicable to the workplace, but to life in general.

³⁵ Here it is perhaps helpful to provide a distinction between deep and surface learning approaches. For Entwistle the deep approach requires an intention to extract meaning, producing active learning processes that involve relating ideas and looking for patterns and principles on the one hand, and using evidence and examining the logic of the argument on the other. The approach also involves monitoring the development of one's own understanding. Entwistle considers that the surface approach in contrast involves an intention just to cope with the task, which sees the course as unrelated bits of information which leads to much more restricted learning processes, in particular to routine memorisation, see Entwistle, McCune & Walker (2000) in Entwistle, N, J, "Promoting Deep Learning Through Teaching and Assessment: Conceptual Frameworks and Educational Contexts." TLRP conference, Leicester, 2000, available at <http://www.tlrp.org/pub/acadpub/Entwistle2000.pdf> (Accessed on 28.05.14).

³⁶ According to Wilcox et. al. a competency is a concept that includes particular knowledge, a single skill or ability, or an attitude. It speaks to the quality of being adequately or well qualified, whether physically or intellectually; see Wilcox Y, & King J, *A Professional Grounding and History of the Development and Formal Use of Evaluator Competencies*, The Canadian Journal of Program Evaluation Vol. 28 No. 3 (2014), pp 1–28. See also Howell, W. S. (1982), *The Empathic Communicator*, (Belmont, CA: Wadsworth), pp 29-33, who explains in the context of the 'conscious competence learning matrix'(used to explain the psychological stages of learning new skills and techniques), that unconscious competence is when a particular task is finally mastered and you do not even think about what you have [done] such as when you have learned to ride a bike very successfully.

Whilst a significant source of data for this study was gathered through semi-structured interviews and focus groups, additional data was gathered through the process of non-participant observation. **Analysis of all the observational data gathered enhanced and enriched the quality of the data overall in particular the view of the researcher was that the students did grow in confidence and ability over the duration of the course.** This is a point supported by Simpson and Tuson (2003) when they suggest that any tool for data-gathering provides only one picture of the social world, and matches and mismatches of data gathered by different techniques help to enrich the understanding of what is going on. This was certainly true when comparing what was observed during the role-play simulations and what the student participants revealed during the course of the focus groups and semi-structured interviews as well as the views which the student participants expressed in their reflective journals.

The perceived benefits of role-play simulation - the findings

In analysing the data gathered from the research study, the writer employed the constant comparative method which involved the process of carefully going through the data, comparing all the elements such as phrases, sentences paragraphs with all the other elements.³⁷ This process enabled comparisons to be made. Coding was then used as an analytical method which enabled interpretation of the data gathered for the study. What emerged were a number of themes, which can be broadly summarised as; deep and surface learning theory through immersion, confidence, motivation or willingness to learn, the affective nature of the learning approach, preparation, graduate skills acquisition, learning enjoyment and an appreciation of the importance and benefit of reflection. Some of these themes will be addressed herein to support a case for an increased emphasis on experiential learning within the legal education curriculum.

Deep Learning

The deep learning approach is the intention to establish mastery of the material and integration of it into the learner's existing knowledge base. The surface approach is the intention to achieve short-term memorisation of the material so that it may be reproduced, for example, in an assessment.³⁸ Many students approach their learning strategically with an intention of neither complete mastery nor short-term memorisation, but maximisation of assessment grades.³⁹ Through the teaching of mediation at undergraduate level, which can incorporate a significant skills based component which builds upon the subject's theoretical framework, what the writer's study revealed, was that if students are prepared to immerse themselves in authentic situations, they can achieve deep as opposed to surface learning. Through

³⁷ See Thomas G, (2010), *How to do Your Research Project*, (Sage: London), p 198, who maintains that this approach is foundational to qualitative research analysis.

³⁸ Cuthbert P, *The Student Learning Process: Learning Styles or Learning Approaches?* Teaching in Higher Education, Vol. 10, No. 2, April 2005, 235-249.

³⁹ Entwistle N, & Ramsden P, (1983), in Cuthbert P, *ibid*.

their immersion in role-play activities, comments from two participants revealed the following;

"I think I learn better practically and when I see something applied it makes more sense to me".

and,

"...[role-play simulation has] forced me to go back to the theory and think deeply about it".

Building on the research into deep and surface learning approaches undertaken in Sweden during the 1970s,⁴⁰ by the millennium there was a growing body of pedagogical research into legal education, much of it from the US. In a study undertaken into the benefits of experiential learning in the law curriculum at University of Washington Law School,⁴¹ in an interview with one student for the video-tape project "Teach the Whole Class" the researcher reports that one study participant said:

"That was something that definitely when I took the class brought back my enthusiasm for wanting to go out and practice. It made me remember, okay, this is why I'm here, this is what I want to do".⁴²

The generally held view from the educational research in this area (some anecdotal/some empirical) would appear to suggest that that ELT approaches, including role-play simulation, are effective as learning tools and that students learn more deeply with better development and understanding of knowledge and skills in their particular study disciplines.⁴³ Active learning allows participants to get an in-depth understanding of many of the social interactions that arise when evaluating or solving a problem.⁴⁴ This approach⁴⁵ would therefore seem to facilitate deeper learning opportunities and this is definitely something that the writer's study revealed.

Motivation to Learn

Linked to the achievement of deep learning through role-play simulation is the idea that students can be motivated to learn through such teaching and learning

⁴⁰ Research suggests that experiential learning facilitates deep learning, or in other words, immersion as opposed to surface learning approaches which are more about merely regurgitation of facts. It is perhaps the case that the ways in which the law undergraduate curriculum is structured sometimes makes the lecturer complicit in encouraging students to take a shallow approach to learning. Through pioneering studies undertaken in Swedish universities, the findings of which were reported in 1976, Marton and Saljo introduced the theory of deep and surface approaches to learning. For an analysis of Marton and Saljo's approach see Diseth A, & Martinsen O, (2003), *Approaches to Learning, Cognitive Style, and Motives as Predictors of Academic Achievement*, Educational Psychology, 23: 2, pp 195-207.

⁴¹ Maranville D, *Infusing Passion and Context into the Traditional Curriculum through Experiential Learning*, J. Legal Educ. 51, No. 1, March 2001, 60.

⁴² *Ibid*, pp 52-55.

⁴³ See generally Marton and Saljo, in Diseth A, & Martinsen O, *supra n. 40*, at 195-207; Bergman P, Sherr A, and Burrige R, *Learning from Experience: Non-legally Specific Role Plays*, J. Legal Educ. 37 (1987): 535.; Towne et al. (1993) in Feinstein A, Mann S, and Corsun D, *Charting the Experiential Territory Clarifying Definitions and Uses of Computer Simulation, Games and Role-play*, Journal of Management Development, Vol. 21 No. 10, (2002), 732-744; Hannafin, M. & Peck, K. (1988), *The Design, Development, and Evaluation of Instructional Software*, (New York: Macmillan); *ibid*, Maranville, (2001), *supra n. 41*, at 19-20, 2001, Weller 2004 and Maharg P, & Owen M, *Simulations, Learning and Metaverse: Changing Cultures in Legal Education*. UK Centre for Legal Education, 2007, available at SSRN: <http://ssrn.com/abstract=999541>, (Last accessed on 08.02.13).

⁴⁴ *Ibid*, Feinstein et. al. 737.

⁴⁵ Of the kind suggested by Marton and Saljo, see Diseth A, & Martinsen O, (2003), *supra n. 40* 195-207.

approaches. There is a significant body of empirical evidence from diverse disciplines to support this e.g. from the field of computer-based instructional technology and social sciences in relation to computer simulation as well as from the field of legal education;⁴⁶

*“By playing a role.....students start to identify with the role, which gives them a personal stake in the proceeding and enhances their motivation. Students acknowledged that this exercise helped them understand and tackle complicated issues and achieve deeper learning”.*⁴⁷

Students who favour experiential approaches to learning will be motivated to learn through active learning⁴⁸ and the author’s study seemed to support this. In this regard however, valid arguments from the data analysis emerged about perhaps restricting these more progressive approaches more heavily to optional areas of the law curriculum. There is nevertheless a case to be made for incorporating role-play simulation into the core curriculum in a balanced way, although some modules may be better suited to the approach than others e.g. Tort, Contract, Criminal Law, Administrative Law and Property Law perhaps.⁴⁹

Certainly learner motivation must have an impact on the efficacy of role-play simulation as a learning tool. From the writer’s study in the context of developing knowledge and understanding about mediation, one example of participants’ general views on this are reflected in the following;

“For me, the most useful aspect of the course was the role-plays as they were both stimulating and motivating”.

Available empirical research evidence appears to reveal that students tend to be motivated when learning experientially and the findings of this study support the notion that role-play simulation approaches encourage and can enable students to learn with greater motivation.⁵⁰

⁴⁶ A number of researchers have found that using simulation improves learner motivation. For example in the context of legal education, Brayne H, et. al. found that active learning strategies improve motivation levels in law students; see Brayne H, et. al. *supra* n. 27 in chapter 4 and at p 266. See generally the views of Hannafin, M. & Peck, K. *supra* n. 42; Towne et al. in Feinstein A, et. al. *supra* n. 42, at 738, in relation to positive views on students’ motivation through active learning in other disciplines.

⁴⁷ Shearman P, & Linser R, (1999), in Ip A, & Linser R, "Evaluation of a Role-Play Simulation in Political Science" *The Technology Source*, January/February (2001). Available online at <http://ts.mivu.org/default.asp?show=article&id=1034> (Last accessed on 15.03.13).

⁴⁸ See Maranville, *supra* n. 40, 52-54.

⁴⁹ See Hall J, Kerrigan K, *supra* n. 17, who have incorporated simulated experiential activities into the Law curriculum at Northumbria, including within four core modules in year one: Contract, Property, English and EU Legal Systems and Crime, Litigation and Evidence; see also Bergman, et al. *supra* n. 42, who observed that traditional courses such as Administrative Law, Torts, Contracts, and Constitutional Law delivered in US Law Schools were by the mid-1980s making effective use of simulated learning approaches: and for more recent specific examples of role-play scenarios used in areas of the core UK undergraduate Law curriculum and in particular the study of aspects of Criminal Law, see Butcher A, Grimes R, and Parker R, *Law in Action: Learning Through Scripted Role Plays*, which can be found on the archived website of the Higher Education Academy of the UK, Centre for Legal Education at <http://www.ukcle.ac.uk/resources/teaching-and-learning-practices/roleplays/> (Last accessed on 23.05.14). The materials available on the website are a compilation of eight courtroom scenarios replicating everyday cases in the criminal courts, plus supporting materials and teaching/learning notes for tutors and students.

⁵⁰ See Maranville, *supra* n. 41, 52-55, whose views on the benefits of simulation in this regard seem to be supported by Bergman, et al. *supra* n. 43, and whilst their findings are not empirical, these authors believe that from their own experiences in terms of process, simulations generally provide students with greater motivation to learn than methods such as lectures, discussions and case studies. They hypothesise that this may be something to do with the fact that the teacher is removed from the central position in the classroom. They also suggest that simulation can give rise to unforeseen events which to them suggests that students can direct the exercises to their learning needs. Finally they form the view that simulations give students

Confidence

The study further revealed that through engaging in role-play simulations students can grow in confidence and become more rounded law students. Consider these two responses;

“I found the role-plays quite challenging for myself to be honest as I am very nervous in front of other people this is why I chose this module basically. Because I wanted to become more confident”.

and,

“Definitely it did [build confidence]. It did because, I think the more you do it the more you think to yourself, hey wait, I can actually do this and because of all the positive criticism and all the reading that you do, you get to recognise what you’re not too good at and you can go back, do it better, so the more you did it, the better you become I think”.

Role-play simulation seemingly provided students with the opportunity to become more confident and had a positive effect on students’ confidence building. When the data was extrapolated, confidence was a recurring theme. Through observation, it was evident that whilst some students did not appear to be at ease when initially participating in the role-play, this unease did seem to disappear as the participants became more confident throughout the duration of the course.

Review of the data did not reveal any responses indicating that role-playing reduced participants’ confidence. On the contrary, there was a general indication that the participants considered that they had grown in confidence through participation in the role-play exercises and this was certainly evident through observing the students’ progress over a ten week period.

Reflection

Learning through experience can best take place when students totally immerse themselves in the learning process and afterwards evaluate and reflect upon their learning experience.⁵¹ This is what occurs when students learn in this way and the findings of this study show that role-play simulation can help learners develop reflective skills. Consider comments from the following participants;

“It’s important to reflect because you need to see where you are going right and where you are going wrong, if you don’t you’re pretty much clueless as to what you are doing and you are not improving anywhere without reflecting so”.

and,

“Receiving feedback was important to improve my performance in the future”.

Participant responses such as these would lend support to the views of Kolb⁵² and Boud et al.⁵³ who see learning as occurring in the reflection and conceptualisation

the opportunity to talk and listen in groups as small as two or three, enabling those who are anxious and largely silent during class discussions to participate more readily.

⁵¹ See generally the work of Schon D, (1983), *The Reflective Practitioner: How Professionals Think in Action*, (Ashgate: London), and see also Kolb, D, *supra* n. 7, 42.

⁵² *Ibid.*

⁵³ Boud D, Keogh R & Walker D, (1985), *Reflection: Turning Experience into Learning*, (Kogan Page: New York), pp 69-83.

that takes place during the event, and who believe that the process of reflection is an important human activity in the learning process. In fact the essence of Kolb's findings was that 'learning occurs not in the doing but in the reflection and conceptualisation that takes place during the event'.⁵⁴ Students will be able to do this by reflecting on their experience, something which Boud et al. consider to be an important human activity in which people recapture their experience, think about it, mull it over and evaluate it and it is this working with experience which is important in learning.⁵⁵

Employability (graduate skills)

The employability agenda has never been more important for UK universities, particularly those newer institutions which, through the massification of higher education and the on-going widening participation agenda, are competing with the Russell Group and post-92 universities on what government would have us believe is a level playing field.

Competition for graduate-type employment should arguably alert Law schools to strongly consider introducing experiential learning strategies to enhance employability.⁵⁶ Such strategies could include work-based learning, community placements, community-based projects or individual studies, personal development planning and problem-based learning. All of which could be implemented to provide a stepped approach to embedding employability skills within the law undergraduate curriculum throughout the levels of study. A progression approach to employability skills acquisition would include communication skills, advice, interviewing, legal drafting, witness handling, written and spoken advocacy and aspects of ethics. All of which is intended to be preparation for the practical/vocational stage (rather than a replacement for this later stage) of legal education in the UK.

Where optional courses such as the one in which these participants were concerned, particularly those modules that are applicable to the development of key graduate and transferable skills, there is a strong argument for the inclusion of role-play simulation within the curriculum. This is articulated from the writer's research, in that the student participants generally considered the approach taken with the course concerned to have helped them to develop important key graduate skills, particularly organisational management, team working and communication skills;

"I think I learnt a lot of skills like listening and learning how to manage the process, so that was all very good".

"I think I learnt to listen better and to show I'm listening um also I think it's helped me with communication skills I think that definitely ... I built on"

⁵⁴ See Kolb, *supra* n. 7, 41.

⁵⁵ Boud D, et al. *supra* n. 52, p 76.

⁵⁶ See Mathiassen, L. and Puroo, S. (2002), "Educating Reflective Systems Developers", *Information Systems Journal*, Vol. 12 No. 2, pp. 81-102, who recognise the importance of embedding employability within courses and support the use of role-play simulation to achieve this, maintaining that such strategies provide students with the opportunity to undertake problem-solving tasks in a "real world" situation. For further support for embedding employability see Neumann, B.R. and Banghart, S. (2001), "Industry-University 'Consulternships': An Implementation Guide", *International Journal of Educational Management*, Vol. 15 No. 1, pp. 7-11, who suggest that the relationship between academia and industry is a gap to be bridged and who support the use of "real" companies acting as clients in requirements gathering exercises.

“I have significantly improved in my organization skills as a mediator with the practise in prioritising issues and writing down an agenda to follow for the mediation”.

Admittedly not all students studying for the qualifying law degree in the UK will practise law. However it is not just “lawyerly” skills that students can acquire, but also graduate or transferrable skills and in turn skills that will possibly enhance employability in a range of different employment settings. Experiential learning as part of a “for-credit” course in law supports students in making the transition from university to practice. There is evidence from the writer’s research to support the fact that students believe that there are opportunities to achieve good depth of subject knowledge through engaging in deep learning of the law curriculum.⁵⁷ Participants in the study generally considered that if the theory comes first, then it can be better understood through practical application such as role-play, particularly in an area of the curriculum which has a significant skills-based element associated with it. Again there is acknowledgement here of the benefits of making the link between law and legal practice in terms of knowledge and skills acquisition through deeper approaches to learning.⁵⁸

The challenges to this learning and teaching approach

The challenges that appear to be evident from having delivered this course and from the participants’ feedback are categorised in terms of preparation, group size, motivation/lack of immersion, lack of reality and curriculum subject matter.

Motivation through lack of immersion on behalf of those participating in an organised role-play can have a detrimental effect on the effectiveness of the teaching and learning approach. Linked to motivation is the need for students to be very well prepared in order to adopt the role they are playing effectively, not only to maximise their own learning experience, but for others whom their behaviour influences. It is suggested therefore by inference that poor preparation and a lack of ‘buy in’ from role-play participants can prevent participants from “getting into role” and have a detrimental effect on the learning process.

“I think what made it difficult sometimes, maybe the student wasn’t prepared with the instructions we were given”.

and,

“I found it sometimes quite frustrating as some people didn’t prepare as much....or they didn’t really follow the script of the party and [some students] had some problems with a role-play where the party did not reveal the right information and didn’t follow the script. But I think they were still constructive and we still had very much to learn from them. It would be an ideal scenario if everyone follows the script and prepares a reasonable amount of time before the actual role-play”.

⁵⁷ See Diseth A, & Martinsen O, *supra* n. 40, pp 195-207, for their analysis of Marton and Saljo’s work and those authors’ views on deep and surface learning approaches during the 1970s.

⁵⁸ See Vaughn *supra* n. 19; Druckman *supra* n. 21 on bridging the gap between theory and practice.

Lack of preparation for this kind of teaching and learning strategy may therefore be an impediment to effective learning through role-play simulation and “buy-in” from student participants is crucial for an effective learning environment to be created.

The lack of reality or authenticity could also be an issue for truly learning experientially through role-play simulation.⁵⁹ One participant suggested that some of the scenarios were perhaps not that close to reality and these presented barriers for her to learn more affectively;

“...the barriers to [role-play] would probably be that it’s a setting whereby everything is prepared so perhaps it’s not the actual scenario that would come along, but I think it’s very close and I think it’s a step forward to a real life situation”.

Contextualised learning probably works best with ‘real life’ experience and there is probably no substitute for this in the context of ELT, this was borne out by other participants’ responses. By way of example;

“I think that the barriers would be that it is a role-play it’s not actually real. So you don’t actually feel it. You need to do some real scenarios with real people. Because that’s how I felt, oh if I make a mistake it’s not too bad, I will learn from it but if it was a real person I’d try not to make any mistakes and take it a lot more seriously”.

When asked to give their views on what size of group role-play simulation would be best suited, the participants were pretty unanimous in suggesting that the smaller groups were favoured. The following illustrates a typical response;

“...If we have too many students I don’t think it could work because, you know if you really want to experience something or learn from it you need to be in a smaller group. I think smaller groups always work better”.

This may be because with a smaller group the facilitator is more able to provide one to one feedback rather than generic feedback to a group which may not address individual performances in any great detail.

In terms of curriculum subject matter, limitations of the use of role-play simulation were acknowledged in relation to the possibility of including role-play within the undergraduate core law curriculum was explored, so too group size. Based on the findings of this study, curriculum subject matter may present a barrier to the efficacy of role-play simulation as a teaching and learning instrument. When asked if there were any examples where role-play simulation really wouldn’t work, or some aspects of the undergraduate legal education curriculum that do not perhaps lend themselves to the practical way of teaching, three different participants provided some interesting responses.

⁵⁹ See Brayne et. al. p 185 *supra* n. 29; Barton et. al. *supra* n. 19, and Kam et. al. *supra* n. 28 on the importance of authenticity.

“Yes for example Critical Approaches to Law. I don’t think there’s anything practical. There can be debates and different activities but it’s not practical learning and there is for example International Law and I don’t think there’s anything..”.

“or English Legal System”.

“or jurisprudence”.

In terms of the participants’ views on experiential learning strategies such as role-play simulation within the core subjects,⁶⁰ again contrast the responses from three different participants;

“So if we go through theory we forget where, what we want to do and what’s the end result of it. So giving us a taste of what it could be or what we could be doing in a couple of years motivates us and helps us learn better as well. I was thinking about the practical learning within Law and I thought, I think it could be applied to most areas because even when you do your training as a solicitor, for example if I would be asked now to draft a will, I could probably do it, but not very well. However after theory and doing the LPC and practical I’ll probably do a lot better job of drafting the will than at the beginning. So practical learning I think it’s essential for Law as a degree”.

and,

“Personally I don’t see how it could happen because we usually have the discussions in class whereby we express our opinion, but I don’t know how it would work practically”.

and,

“I also think [role-play] could work it probably would and I actually like the idea now because, doing it in practice and also when we did it, in Law of Tort when we had the practical problems if we performed it as a practical performance, the person comes in and then we advise then it would probably work better to give that advice instead of having it written down or ...”

The generally held views of the participants would appear to suggest that the role-play simulation approach to teaching and learning would not necessarily be suitable for all undergraduate law courses and possibly only for the more optional courses which tend to be comprised of smaller numbers. However existing research does seem suggest that this approach can be effectively incorporated for some of the core law modules.⁶¹

Such experiential teaching and learning strategies could well be more manageable with smaller numbers of students where particularly in terms of graduate skills acquisition, one to one feedback is invaluable. With a large group it is often impossible for this to be achieved due to resource constraints.

⁶⁰ The seven foundations being: Criminal Law, Contract, Tort, Property/Land Law, Equity and Trusts and Public Law (Constitutional, Administrative and Human Rights Law) and Law of the European Union.

⁶¹ See Hall J, Kerrigan K, *supra* n. 17 and Bergman et. al. *supra* n. 43 as support for this.

The writer considers that some responses suggest that there is a place for experiential learning within the core curriculum e.g. Contract Law, a topic traditionally considered by some to be very dry and more often than not taught in the early stages of the law degree usually with a very doctrinal approach; hence many law students graduate having never seen any form of written contract. Law students may understand the theoretical principles of offer and acceptance, and consideration, but have little appreciation of how this is practically translated. They may during post graduate study have exposure to a contract of sale in a conveyancing course or a share sale and purchase agreement in a business law course, but little effort seems to be made at linking the theory learnt as an undergraduate to its practical application within the LPC or BPTC curricula. The undergraduate legal education curriculum, in the view of the writer, should not in this regard be mutually exclusive, but integrative.

Similarly those law graduates who are not going to be using their qualification to enter either branch of the legal profession with a view to becoming barristers or solicitors should also benefit from a more practical approach to their learning. An increasing number of law graduates do not enter either branch and many will end up working in an environment which may call upon them to give some kind of legal advice, not necessarily to clients, but certainly to their employers and colleagues. Where any kind of personal interaction is required, the confidence which students confirmed that they gain through the ability to respond to “real time” or simulated role-play situations concerning real “problems” and “issues”, will undoubtedly enhance graduates’ ability to respond appropriately in the workplace arena. The kinds of role-playing that provides students with some measure of commercial awareness for instance is invaluable for those graduates entering employment sectors within the business world in areas such as accountancy, finance or in the insurance industry for instance. Law graduates will enter so many different employment sectors including local government legal service, legal publishing, political research, teaching and academia and they will undoubtedly benefit from having learned experientially through role-play simulation techniques.

Conclusion

In alignment with much of the literature in this area of educational research, the findings of the writer’s small-scale study revealed that role-play simulation is certainly valuable in enabling undergraduate law students to learn about some aspects of the curriculum, in this case mediation in an optional final year law undergraduate module. This is particularly true of the application of the theoretical aspects of the curriculum to the associated practical setting, thus helping students to establish the important link between theory and practice. This **clearly** supports the view held by some educational theorists that role-play simulation assists students’ learning in certain contexts and particularly for areas of the undergraduate legal education curriculum, which include aspects of professional skills-based

competencies. As such it can be an invaluable teaching and learning tool in enabling students to acquire graduate level skills.⁶²

Generally speaking the traditional approach to UK legal education has included the established view that future UK lawyers need really only be exposed to practical or experiential elements of 'lawyering' during either the vocational or professional stages of their post-graduate study. Law students have been traditionally educated to become lawyers by reading the law,⁶³ or in other words through engaging in doctrinal traditional black-letter scholarship.⁶⁴ Accordingly, the traditionalist argument is one that supports an undergraduate law curriculum which concentrates to a large extent on theoretical aspects of legal education. In the writer's view this is insufficient for preparing graduates for the employment market.

The findings of the study suggest that there is a place for experiential learning in the form of role-play simulation within the undergraduate law curriculum for a module that has a skills-based component such as mediation or negotiation. Whilst the role-play simulation aspect of the Civil & Commercial Mediation course was favourably received by the student participants in the study, the research findings revealed that there was a balance of opinion about the likely efficacy of this approach to learning and teaching for core areas of the UK undergraduate law curriculum. However the responses in relation to motivation, increased confidence and deeper learning show that role-play simulation does have a part to play in undergraduate legal education, although a wide-ranging study would need to be undertaken to establish if this is indeed the case as regards learning aspects of the core law subjects.

There is good evidence from other law schools both in the UK and abroad to support the use of role-play simulation for areas of the core curriculum such as Contract Law, Property Law, English and EU Legal Systems, Criminal Law, Litigation and Evidence,⁶⁵ and as such there is an argument for giving students the opportunity to learn some of the core subjects by using elements of role-play simulation. For instance there may be some merit in requiring undergraduate law students in simulated situations

⁶² See generally Loftus and Loftus 1983, *supra* n. 43, Duncan R, *Teaching Legal Skills for Transfer of Learning is Simulation the Answer?* 2 J. Prof. Legal Educ. 64, (1984); Bergman P, et. al. *supra* n. 43; Hannafin and Peck, 1988, *supra* n. 43; Towne et al. (1993) in Feinstein A, et. al. *supra* n. 43, De Neve K, & Heppner M, *Role Play Simulations: The Assessment of an Active Learning Technique and Comparisons with Traditional Lectures*, Innovative Higher Education, Vol. 21, No. 3, Spring 1997; McCarthy J, & Anderson L, *Active Learning Techniques Versus Traditional Teaching Styles: Two Experiments from History and Political Science*, Innovative Higher Education, Vol. 24, No. 4, Summer 2000; Maranville D, *supra* n. 40, 51-75; Shearman P, & Linser R, (1999), in Ip A, & Linser R, (2001), *supra* n. 47.

⁶³ "Traditional" in this sense implies the doctrinal approach to legal education which has predominantly been the focus of the undergraduate law curriculum, whilst leaving the more practical elements of a future lawyer's training to the postgraduate courses; the LPC and the BPTC, which is officially understood to be part of the lawyers' vocational training stage in the UK. See Bradney A, "Law as a Parasitic Discipline." *Journal of Law and Society* 25.1 (1998): 71-84, in which he engages in a discussion about how the new generation of UK law schools during the late nineties were starting to abandon doctrinal work or infusing it with techniques more common to approaches used by humanities and social sciences, which in Bradney's view would lead to a more liberal legal education. Doctrinal work he defines as the internal evidence offered by judgments and statutes. See also Austin A, (1965) and Costonis J, (1993), in Stropus R, *Mend It, Bend It, and Extend It: The Fate of Traditional Law School Methodology in the 21st Century*, 27 *Loy. U. Chi. L.J.* 449 1995-1996, 147 and 151; see also see also Bergman, et al. *supra* n.42, who make the distinction between experiential and traditional methods of legal education in terms of its process and content and in the context of Kolb's four stage learning cycle, see the intellectual aspects of the second (abstract conceptualization) and third (concrete experience and reflective observation) stages, as being largely based on concrete experiences rather than intellectual constructs.

⁶⁴ Webb J, *Ethics for Lawyers or Ethics for Citizens? New Directions for Legal Education*, *Journal of Law & Society*, Volume 25, No. 1, March 1998, 137.

⁶⁵ In support of this see Hall J and Kerrigan K, *supra* n. 17; Bergman et. al. *supra* n. 43.

to take instructions from, and provide advice to clients about aspects of a land purchase in Property Law. Such a scenario might perhaps concern the theoretical application of rights of way and easements. Students may understand more about theoretical aspects of Equity and Trusts and better make the link between theory and practice through the taking of instructions for preparing a will, by giving advice to a “client” on intestacy rights in a scenario involving a wealthy family member who died intestate or advising on the creation of a simple charitable purposes trust for instance. Again a wider-ranging study centred on role-play simulation within the core curriculum should reveal the scope for this approach to learning and teaching and whether or not “real time” simulation achieves some of the learning objectives which an optional module such as the one which was the subject of the writer’s study achieved.

The research here highlights some of the challenges to the effective implementation of simulation-based approaches to teaching and learning within undergraduate legal education. The student groups at this stage of study are usually quite large; at the writer’s institution in excess of 50 students are present in a class teaching one of the foundational subjects of legal knowledge and the Law School is small by comparison.⁶⁶ This does present some challenges, not only for the learner, but also for the facilitator of the learning process in creating a beneficial learning structure in terms of preparation and implementation, but these are by no means insurmountable. For students to get the best out of the role-play simulation exercises in terms of formative feedback more than one facilitator may need to be present; reflection on learning might best be achieved in smaller groups where the facilitator can give feedback on specific student performance; this could conceivably be achieved during seminar time and would be less effective with larger groups without significantly improving the teacher/student ratio.

In order to provide a rounded student experience for the UK law undergraduate and enable the law student to better make the link between theory and practice, a balanced undergraduate legal education curriculum must be provided. Such curriculum design would combine the traditional more didactic learning and teaching methods with the some of the more progressive experiential approaches such as role-play simulation. This would be a suitable alternative to the full clinic model which does require additional staffing with the associated budgetary implications. In some institutions the ongoing funding required to ensure sustainability of such “live clinic” projects might be considered a luxury and as such unjustifiable.

The study which informed this article was very small-scale and as such inherent limitations with its findings must be acknowledged. Whilst the participants in the study considered that role-play simulation would, on balance, achieve the desired effect in the kind of skills-based course in which they participated, in order to develop a greater understanding of the efficacy of role-play simulation for studying other areas of the undergraduate law curriculum, a larger-scale study could be undertaken employing greater numbers of students, from a wider range of law undergraduates. Such a study should focus on other areas of the undergraduate law

⁶⁶ Ibid, see *supra* n. 60.

curriculum, including those core foundational courses. Perhaps a more longitudinal study of students' progress through the levels of an undergraduate law degree could benefit and contribute to the body of research already available in this area.