Death masks and professional masks: community, values and ethics in legal education

Máscaras mortuorias y máscaras profesionales: comunidad, valores y ética en la educación jurídica

Paul Maharg
The Australian National University, Australia

Resumen / Abstract
This article is a case-study of simulation as a way of learning values and ethics, an approach implemented curriculum-wide within a postgraduate, professional legal educational programmein Scotland, called the Diploma in Professional Legal Practice. It involves learning face-to-face using conventional print resources, and also involves online digital resources. While the use of the web to simulate a professional environment is nothing new in itself, the implementation of it (first in the Glasgow Graduate School of Law and then Strathclyde Law School) and on this scale is fairly unique. The article explores the genesis of this approach, its interdisciplinary bases, and its use in various law schools, its effects in building learning communities and facilitating ethical self-revelation.

Introduction

Great Expectations is a novel about permanence and permeation, stasis and fluidity, and the many forms that this takes in social relations. It is also a *Bildungsroman,* a novel about education and value – Pip's learning about the world and its values – and about community and the professional life, embodied in the figures of Jaggers and Wemmick, his legal clerk. Wemmick's life is classically that of the divided person, for whom professional and personal lives are entirely separate. On first meeting him Pip describes his 'square wooden face, whose expression seemed to have been imperfectly chipped out with a dull-edged chisel', and his habit of smiling that is 'merely a mechanical appearance'. Wemmick learns much of this behaviour from his employer, Jaggers. When Pip visits Newgate prison in Wemmick's company, he notes how 'something of the state of Mr Jaggers hung about [Wemmick] too, forbidding approach beyond certain limits'. Wemmick knows the strategy well, and how his role as subordinate contributes to the lawyer's superb command of professional distance:

> 'I don't know that Mr. Jaggers does a better thing than the way in which he keeps himself so high. He's always so high. His constant height is of a piece with his immense abilities. That Colonel durst no more take leave of him, than that turnkey durst ask him his intentions respecting a case. Then,

between his height and them, he slips in his subordinate – don't you see? – and so he has 'em, soul and body.' (Dickens 1999)

Jaggers himself slices apart emotions and legal analysis. '"Get out of this office", he commands a client at one point who is pleading that he can't help his emotions, '"I'll have no feelings here. Get out."' Famously, he is the epitome of lawyer as relativist, as hired gun, with his admiring clerk Wemmick as fee-collector and briskly astute general factotum, a man who represents even more than his employer the schizoid thinking of technical professionalism – an attitude so narrow that it creates an alienation that Pip finds amusing at first, then baffling and ultimately tragic. The novel repeats the trope of alienation and division in almost every image. Wemmick's mechanical smile only becomes genuine when he is at home in the 'Castle'. The house is a delightful parody of siege architecture which serves the purpose of resisting the corrosive effects of the world generally, and Jaggers' office in particular. When inside it, Pip asks Wemmick if Jaggers has seen Wemmick's remarkable mini-fortress home:

> '[He has n]ever seen it,' said Wemmick. 'Never heard of it. Never seen the Aged [Parent]. Never heard of him. No; the office is one thing, and private life is another. When I go into the office, I leave the Castle behind me, and when I come into the Castle, I leave the office behind me. If it's not in any way disagreeable to you, you'll oblige me by doing the same. I don't wish it professionally spoken about.' (Dickens 1999)

Inside Wemmick's home is love, care, gentle courtesy. It is a place of virtue, where marriage is entered into by Wemmick and Miss Skiffens tenderly, modestly; where the Aged Parent is cared for, and where Wemmick can give Pip advice on assisting Herbert Pocket financially – advice the very opposite given to Pip when both are in the office. That office in Little Britain by contrast is dark, filled with half-lights, home to the totemic death masks of hanged men, peopled by strange clerks, scarcely more than automatons, bent to their tasks. In the haunting first scene where we encounter him through Pip's eyes in London, Jaggers walks among pleading, cowed clients who are dismissed into the shade, told to bide their time, or reminded pointedly of their fee payments. His words, brief and few, are power, a linguistic form of hierarchy. Pip alone is shown favour – Jaggers lays his hand on his shoulder and guides him through the press of suppliants, Virgil to Pip's Aeneas, but without the educational regard or the visionary setting. Jaggers is just doing his job, in a criminal justice system that is capricious, savage and uncaring.

It is a classic divide between family-place and workplace, emotions and Kantian rationalisation, law and justice that Weber, Marx, Mannheim and many others since have described in wider social terms. Above all there is a lack of community – the family community that the orphan Pip seeks throughout his life and finds only contingent versions of; the work community that he never finds a satisfactory version of; the friendship community that exists only transiently for him. *Great Expectations* is a tragic novel because there is no resolution of this *anomie* at any level. It is also, I would hold, a tragic model of education we can learn from as

we create our *Bildungsroman* of legal education with our students: we too can learn from the death masks.

Diploma in Legal Practice

This article is a case-study of simulation as a way of learning values and ethics, an approach implemented curriculum-wide within a postgraduate, professional legal educational programme, the Diploma in Professional Legal Practice, in Scotland. It involves learning face-to-face using conventional print resources, and also involves online digital resources. While the use of the web to simulate a professional environment is nothing new in itself, our implementation of it (first in the Glasgow Graduate School of Law and then Strathclyde Law School) and on this scale is fairly unique. It is an approach that has been taken up in other institutions – the University of South Wales Law School, for instance, and The Australian National University College of Law. In addition, the design and use of the online learning environment has led to the re-design of face-to-face interventions, derived from other disciplines, which are unusual in legal education. Accompanying the implementation is a developing body of theory, called transactional learning (Maharg, 2007), which aims to describe and analyse forms of learning based upon all professional interactions, and which is relevant to both undergraduate and postgraduate courses. One of the key aims of using simulation and transactional learning is to create a sense of multi-level community within a programme, that, we hoped, would help to analyse and sustain the values of professionalism that are the basis of the Law Society of Scotland's new legal education and training programme in Scotland.

The Diploma in Professional Legal Practice is currently hosted at six centres in Scotland. At Strathclyde University Law School currently there are around 100 students on the Diploma. Most, though not all, of these students have studied law for four years, to Honours level.[1] While there is a small core of full-time academic and administrative staff, almost all of the classes that take place on the Diploma are taught by around 120 part-time tutor-practitioners.[2] This is normal practice in the Diploma centres in Scotland, and contributes significantly to the cultures and practices of the vocational programme.

Extensive paper-based materials have always been provided by the Law Society of Scotland for the subjects, which for the most part are composed of styles and explanatory text; but little extra for the teaching of skills was provided by the Law Society. This is especially true of what might be regarded as 'performative'

---

[1] The approaches to simulation described here were the direct result of the founding of a new graduate school, the Glasgow Graduate School of Law (GGSL), which operated from 1999-2011. GGSL was a joint graduate school of the law schools of the universities of Glasgow and Strathclyde, with the resources of the two law schools pooled together to create the joint Diploma programme, amongst others.

[2] During the decade or so of the GGSL one significant area of expansion was in the area of technology-enhanced learning. Here, we have increased our staff from a single network maintenance officer to a Learning Technologies Development Unit (LTDU), which consists of a learning technologies development officer, two applications developers, two multimedia and web designers as well as support staff.

legal skills, *ie* interviewing, negotiation, advocacy (Maharg 2001). To supply digital resources, we created multimedia units based upon a cognitive approach to skills learning.

More importantly, though, in the GGSL needed to create a sense of community of practice, a version of which students would encounter as trainees in their practice firms, and which they would develop as part of their professional practice as lawyers. In addition, we required to take into account the forms of professional education at the cutting edge of other disciplines and professions, and adapt them to legal education. To do all this, we developed a simulation engine, called SIMPLE, which would enable forms of Deweyan education to be enacted within a regulatory structure – one where forms of professional learning could also, conceivably, be enacted, via 'associated thought' (Dewey's term), as forms of democratic, communitarian professionalism.

SIMulated Professional Learning Environment (SIMPLE)

The simulation environment has two primary software outputs, in the form of the SIMPLE platform and SIMPLE tools, collectively known as the SIMulated Professional Learning Environment, or SIMPLE. Both products are open source. Each is aimed at different areas of the teaching eco-system: the platform is targeted towards students & staff (in roles such as supervisors, coaches, facilitators, assessors or in-sim characters), and is designed to provide the day-to-day systems for engaging with and managing simulations. The tools, on the other hand, are targeted towards academic and professional educators, and enable them to design professional simulations and manage all of the resources that are required to provide an engaging learning experience.[3]

The two products are deployed differently as well. In order to allow an academic or professional educator to be effective, without placing constraints such as requiring an internet connection and to avoid conflicts in functionality between different web browsers, the tools have been developed as desktop-based applications. This allows educators to use the software wherever they have the tools, without any external requirements.

The SIMPLE platform is web-based, allowing for flexibility in the student learning environment, providing distance-learning or on-campus options as well as flexibility for staff management of student simulations (enabling more efficient multi-tasking in administration and learner support).

---

[3] The products are now out of funding and no longer updated (and for a partial explanation of why this is so, see Findlow 2008). The SIMPLE project was funded by JISC and HEA and developed over two years in 2006-08, led by GGSL (Project Director, Paul Maharg) and including a range of disciplines other than Law including Architecture and Management Science. The code is still available to the FE and HE communities free at point of use at http://simplecommunity.org, with appropriate open-source licence structures in place. On this website is documentation and the final project report.
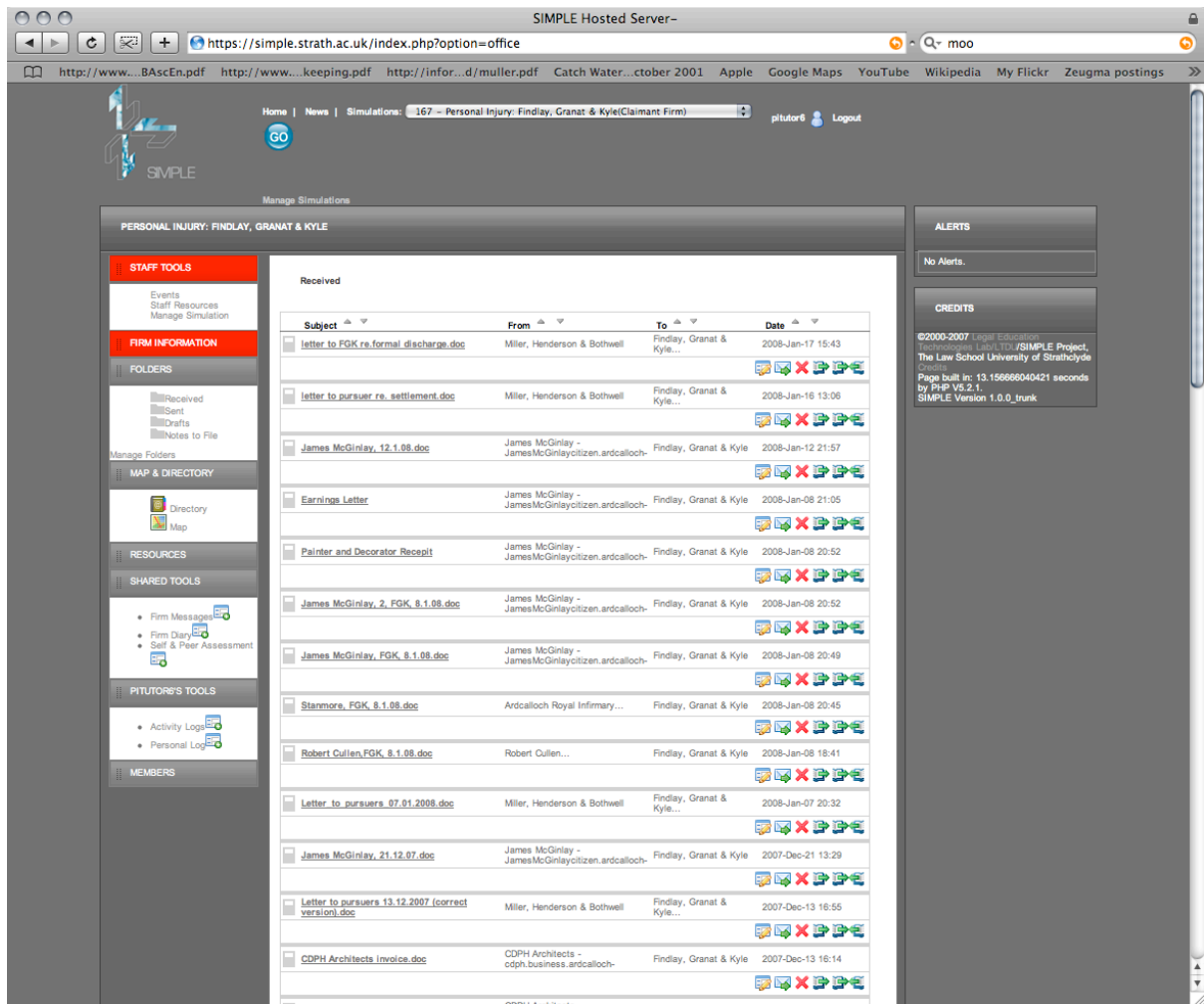
Figure 1: SIMPLE student environment

What do users do with the environment? Figure 1 is an example of part of the case management environment, seen from a staff point of view. Staff see the documents that students see, but with added functionality (staff would click on Staff Tools, in left-hand column to use staff-specific communications tools). Students use the environment as a professional working environment. They can receive, send and store documents, graphics, video and other file formats by uploading them to the environment. They can communicate with real or fictitious persons and institutions, and receive feedback on their work in-role. They have access to any resources that staff may wish to make available to them; they can share tools and resources. They have access to a map of a fictional town (in this case, Ardcalloch – see figure 2 below) and a directory (see figure 3 below). Using the environment, students can build up the correspondence and drafts of an entire transaction, and either use the environment as a single student, or as part of a collaborative grouping.
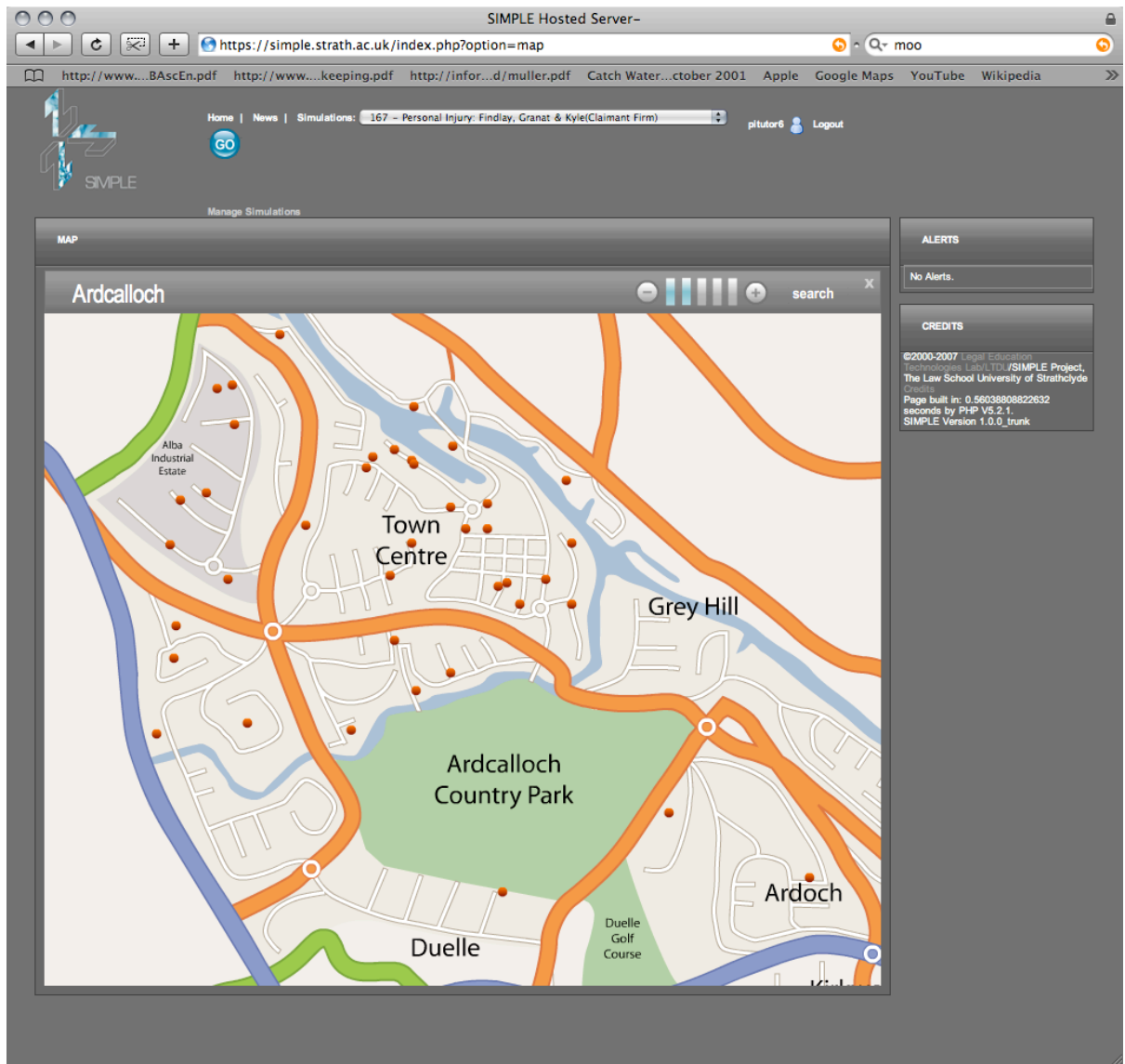
Figure 2: Map of Ardcalloch

Students can increase the level of detail by zooming into the town. Websites, represented at this resolution by red dots, have hover labels which, when clicked, open up a website associated with the organisation or institution.

Figure 3: Directory for the Personal Injury Negotiation Transaction

Figure 3 represents the Ardcalloch directory for the Personal Injury Negotiation Transaction, containing all the institutions, organisations and citizens associated with the project. If students were unsure of addresses, they would use the directory. By contrast, the map was rarely used in this transaction, for students had photographs and sketch maps of the locus of the accident (though it is not difficult to imagine a location-based transaction or interdisciplinary project where the map would be more central to student activities).

It is not easy to describe briefly the scale of the simulation activities undertaken by students in this programme-wide simulation. For background information and further comment see Maharg (2004), Maharg (2006), Barton & Westwood (2006 and 2011), Barton & Maharg (2006), and Maharg (2007). At the start of the year students are formed into groups of four, each one being a simulated law firm. Sited on the south bank of the Clyde, the town acts as a complex simulation of the reality that surrounds actual legal transactions. For example in the Personal Injury Negotiation Transaction (in discussions below, PI),

the firms act for clients, either the injured claimant or as the insurance company's solicitors, in a personal injury negotiation that lasts almost a full semester (around 12 weeks in total). In order to negotiate the case they need to engage in fact-finding by contacting characters and institutions within the virtual community, and pooling the information they obtain. They then need to carry out legal research on issues such as liability and quantum; set out their negotiation strategy and perform the negotiation, either by email or through a face-to-face meeting. Discussion forums for both sides support students in the complex process of carrying out this legal transaction – more of this below. Postgraduate students are trained to answer emails in the guise of any one of around 12 different fictional characters, and to give the appropriate information to students. They are supported by an online forum. If they wish, students can meet as a firm with a negotiation facilitator to discuss strategy and performance before they negotiate with the other side. This meeting, called a negotiation surgery, is in effect a form of small-group, salon learning, and is voluntary. There is no face-to-face teaching in this transaction, apart from an introductory and general feedback lecture (students can also, if they wish, obtain feedback on performance from file assessors at the end of the project).

Project construction is daunting at first. In the PI transaction, Strathclyde now runs at least 16 different transactional variations, based on the same underlying narrative. The differences are created by inserting key variables into the document sets (eg names, ages, wages, details of injuries, witnesses, etc), and running these through a document server to create different sets of documentation for our the number of virtual firms. Once the process has been learned, though, it is easy to replicate in future years, and of course the process of initial building does not need to be replicated each year; but the initial learning curve for staff (academic and admin) is steep.

This is only one of a number of simulations that use the SIMPLE environment. Students also buy and sell property over the web (Conveyancing Transaction); they wind up the estate of a deceased client who has died without leaving a will and they draft a will for the executor (Private Client Transaction); they litigate a simple debt action in the Sheriff Court (Civil Court Practice Transaction). The subject called Practice Management is an over-arching subject where students liaise with tutors who are in effect practice managers, and therefore figures who both encourage and discipline the firm. In each transaction students generate the case file that simulates the work that would be carried out in practice, and encounter the forms of ethical and transactional problems that would be there in a real transaction. The criteria of assessment thus varies: it is balanced to match the work of the transaction as well as the educational aims – from whole-course experience and reflection, to whole case files, to individual documents, to individual clauses within a document.

Nor is this form of learning only applicable to legal professional programmes such as the Diploma in Legal Practice. In the SIMPLE project it was used successfully in undergraduate law programmes at Warwick and Glamorgan University Law Schools and others in the UK. It is not jurisdictionally-specific: a version of it is

currently being used by the Law Workshop of the Australian National University, where the software has undergone radical revision and the approach is used in a vocational programme with over 1,000 students annually (Ferguson & Lee 2012).[4] It has also been used successfully, in the initial JISC/UKCLE SIMPLE project, in postgraduate Architecture and undergraduate Management Science modules.

It goes without saying that an initiative such as this depends on close working between lawyers, technologists and educationalists. It is also, as we shall see in the next section, rooted in an interdisciplinary approach to law, and it is to this that we shall turn first.

In(ter)disciplines: legal education and reader-response theory

Legal education simulations always begin with narratives and relationships. Out of their engagement with these narratives emerge students' personal learning and personal narratives, and their acquisition of legal knowledge and skill in shaping legal narratives. Other disciplines have much to say about this process, and in particular a branch of narrative theory, called 'reader-response theory'. This is a phenomenological approach taken to how we understand narrative, deriving from sources as eclectic as Schleiermacher and Don Ihde. For leading theorists such as Rosenblatt (1994), Iser (1978, 1980) and Jauss (1982) meaning derives from the relationship between reader and text and cultural context. Thus Iser developed a construct called the 'repertoire' of the text, that is to say the underlying codes and rules that govern readings of the text. The codes do not remain constant of course, for they are under continuous interpretation by the reader, depending on reader knowledge of the code, whether the text is read for the first time or re-read and many other factors. The codes at once affect and are the product of reading. Indeterminacy within the text, often problematic for readers, is dealt with by readers in different ways. Much as in music performance, the gaps or spaces in the narrative or form are as important as the information that is there on the page. Meaning is thus shaped not by information *per se*, but by the absence of information and what readers do when faced with such a gap.

Reader-response theory, with its focus on the reader, is particularly useful for researchers studying how readers read texts. Thus, to take just one example, Earthman conducted a classic verbal protocol study of meaning-creation from literary texts, and she compared the readings of two specific audiences: graduate readers and first-year undergraduate readers. She discovered considerable

---

[4] ANU's simulation environment, called the Virtual Office Space or VOS, is at once a stripped down version of SIMPLE and a more user-oriented and more sophisticated design. Ferguson and Lee identified some of the advantages of SIMPLE to the professional programme at ANU:

> Some of the other mechanisms enabled by SIMPLE were for students to receive feed-forward and feedback on work in an ongoing fashion and the opportunity to re-do work until such time as it had reached a competent standard. In addition, the SIMPLE environment enables students to work in groups to complete tasks; exposes them to legal content areas in context; and presents both content areas and assessment in an integrated fashion rather than as silo subject areas or assessment timetables. (Ferguson and Lee, 2012, 131)

differences between the readings of the two groups. Graduates attended more to the gaps in the text's meaning than first year readers; they could adopt a range of perspectives on a text, while first year readers 'retained their initial view of a work'; and finally they 'read in a more "open" manner, using the text extensively and searching for alternatives'. By contrast, first year student readings, 'though satisfying to them, were much more "closed", remaining relatively unelaborated and not often being revised' (Earthman 1992, 351).

Research such as this has led to the construction of types of readers – Iser's 'implied reader', Rosenblatt's 'transactional reader', Jauss's 'actual reader', all of which gave impetus to other scholars, not at first glance within the reader-response fold, to create their own type of readers – Stanley Fish's 'ideal' or 'informed reader' (Fish 1980), and Michael Riffaterre's 'superreader' for instance (Ravaux 1979).[5] The best of these models are based on a fusion of empirical research and theory (Iser and Rosenblatt's readers, for instance); the weakest are variants of vague categories in Law such as 'legal fiction' or 'reasonable person'.

We can appreciate how reader-response theory can help us design simulations if we consider a simulation first from the design angle (ie those staff who are creating and implementing the simulation), and then from the angle of learners.

From the point of view of design and staff who are involved in designing a simulation, there are generally three stages to the transactional simulation process:
1. Sketch of the outline of the document flow between 'fictional' characters, students and tutors
2. Creation of documents (often extracted from style banks)
3. Identification of the variables within the documents that would be databased and assigned to the documents, to diversify the project documents and minimise plagiarism (eg in GGSL's Personal Injury sim, the names of clients, type of injury, wage levels, etc are altered)

In other words the presence or absence of information in the simulation is critical to the pedagogical approach, for designers must think forward to the effect such information may have on learners. Stages 1-3 above, however, comprise many smaller steps and decisions. It is quite easy to sketch out the document flow because that will be based on a typical legal transaction. To a considerable extent the number of steps involved in stage three will depend on whether the scenario is more 'open field' or tightly bounded (Barton & Maharg 2006).

Take the PI project for example. At the GGSL, two of the difficult areas to deal with in this project are feeing the case and the welfare benefits accruing to the client. Both are likely to be entirely new areas of law and practice for students. The whole issue of client fees is a complex area, for instance, and one that a decision must be made about in reality by a designer. But should students be involved in this

---

[5] Also cited in Harker 1992. Rifaterre's reader is actually a composite reader – a ' group of readers and critics having read and commented the text' (Ravaux 1979, 709).

area? There are factors involved here that are more complex than the mimesis of a real transaction. For instance, if this is a difficult area, will it move the focus of the project from negotiation to fee payment? Can it be assimilated quickly enough by the student firm to allow them to proceed with the rest of the project? How will this impact on student workload? How 'problematic' does this make the figure of the client for the student? And if it is taken out of the project, is the project a poorer reflection of reality as a result? Arguably, this is only so if the project is judged on the basis of mimesis or reflection of reality. But, and this is the crucial point, a project can never represent the multi-layered context of a real transaction. The simulation is never the real thing; it simulates, it does not replicate. So in a sense what designers need to do is acknowledge the artistry that goes into creating the simulation, as much as there is artistry in other forms of representation of reality, such as painting, sculpture, drama, ballet; and such artistry involves concepts such as pace, presence and absence of object, word or gesture, density of design, tone, mood and much else (Maharg 2011).

One example will illustrate this design artistry. The Personal Injury project at the GGSL was fairly complex, built up over a period of a decade or more, and in that period of time almost every aspect of the project was under constant review and re-iteration. Below is a representation, in SIMPLE's Narrative Event Diagram (Gould et al 2009), of the two simulations:[6]

---

[6] Cited in Gould et al (2008,71-2). The Narrative Event Diagram (NED) is a design tool used by staff to create simulations by creating nodal points in the narrative, to which can be attached document sets. In its design, as Gould et al (2009) show, is a blend of computer science, information science and narrative theory. It is described as follows:

> The NED tool allows the author to start from a very vague series of events, and iteratively to add more detail to the model in a mechanism that is not only easily transferable (in that it is not entirely reliant upon language skills for interpretation) but is also easily transformable from the high-level description to the low-level code required by the SIMPLE platform to run.

> The Narrative Event Diagram is a highly transferable process, as opposed to a format. It is not tied to any particular technological implementation: an NED. can be created using pen & paper. The SIMPLE Tools are a particular implementation of the NED approach, which utilizes an XML format to persist the diagram. Providing appropriate mappings can be established between a NED element and a persistence object, it would be possible to utilize the NED approach with an alternative storage mechanism such as IMS LD.
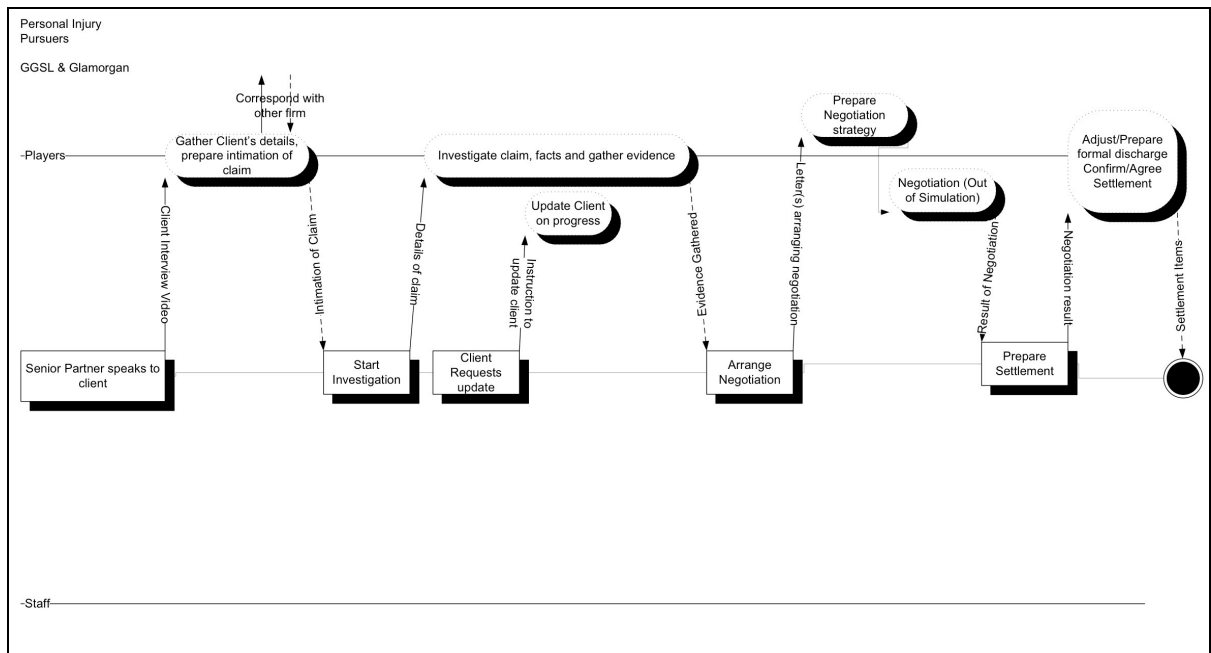
Figure 4: Summary of GGSL Personal Injury transaction
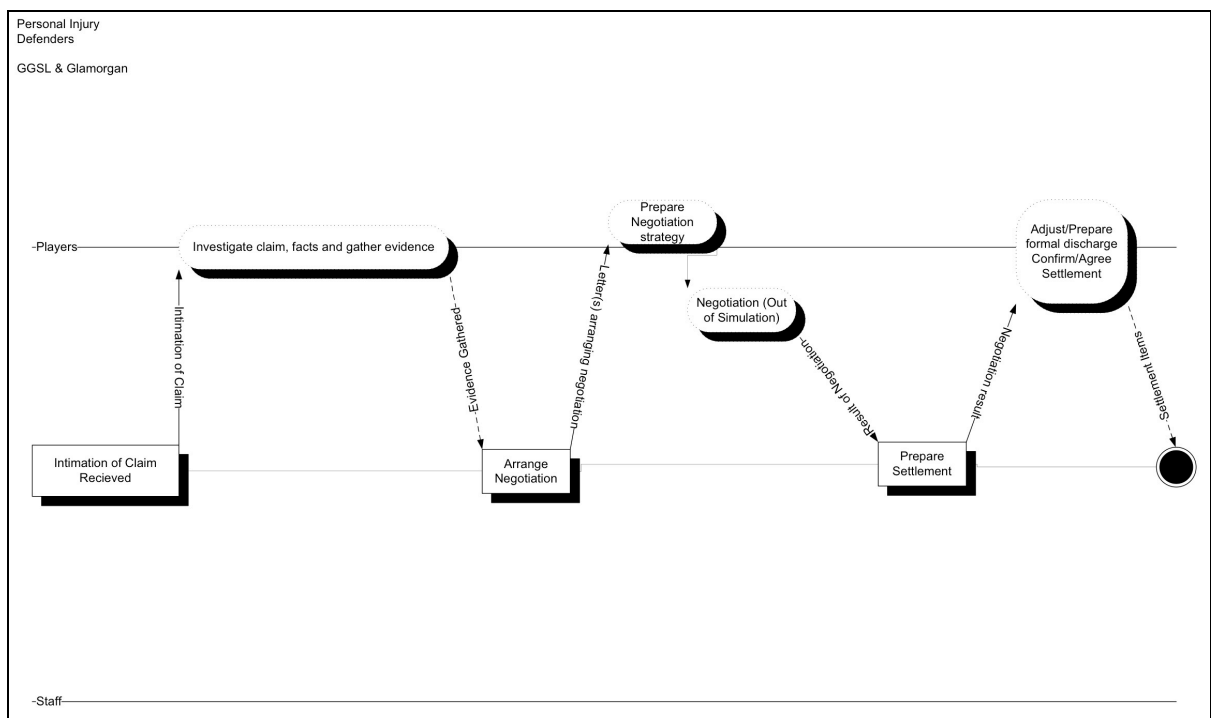
Figure 5: Summary of Glamorgan Personal Injury transaction.

Even allowing for jurisdictional differences in practice, there are many points that can be made about this comparison. At a glance it is clear that the Glamorgan simulation is simpler than the GGSL sim. This is to be expected – the GGSL sim was used by postgraduate students who had generally studied four years of undergraduate law, while the Glamorgan students were first year Tort students. Their sim is consequently simplified and clarified according to the level of knowledge and experience of legal argument that could be expected of first year law students.

However there are interesting design features that appear when one looks more closely at the narrative of the simulation. Key to this is the presence and absence of information that emerges in the correspondence with students, and the placing of information. It is quite possible to give students all the information and all the documents that they need. What we need to do is to plan out the absences, the gaps, the deliberate spaces that need filled in by students. The design artistry in the above three processes therefore lies in the decisions about how much detail is present in the simulation and where it is positioned. The following are typical design-decisions that need to be made by staff constructing the simulation:

1. plotting of absences within the document sets that require investigation by students
2. deciding which stages in the transaction can be short-circuited or removed without affecting the whole
3. deciding on the character set, or *dramatis personae*: do we design a cast of characters more akin to a Balzac or Dickens novel, or do we aim for a stripped-down minimalist transaction, along the lines of a novel by Beckett.
4. the communication routes: who will talk to whom and in which character
5. how will the transaction be spliced with other work that students are undertaking in the curriculum?

Fictional characters, too, can be given more or less detail in the transaction. The GGSL transaction illustrated in the NED above has the client as one of the transactional players, with whom the students, acting as lawyers, must interact while case investigation proceeds. The client, played by a postgraduate or trainee and trained to play the role, had a document set of template letters and information, and could choose how to use that information in correspondence with the virtual firm representing him. The correspondence with each firm is thus different, creating a unique document trail in which the client as a human presence rather than a simulation, comes alive.

And this is why it is not only difficult but inhibitive to set out definitively what students will learn from the simulations such as these. It is equivalent to telling students what they will, or even ought, to learn from a novel or indeed any work of art. Pupils studying for examinations in English Literature may find crammer texts such as CliffsNotes on Dickens' novel *Bleak House* useful in understanding authorial intent, or a biography of Dickens or criticism such as Harrison (2000), but these texts cannot substitute for the experience of reading the novel.[7] They might signal useful things for the reader to be aware of; but equally, they may blind a reader to his or her own insights. In saying this, I am not privileging the reader's possibly uninformed experience here over much more experienced readers' and critics' insights – we have a lot to learn from experienced and knowledgeable readers, and for students, the experience of reading a Victorian novel can always be supplemented by knowledge about what constituted Victorian politics, culture, technology, law, economics, and history (so tantalisingly similar in attitude and modernity to us, yet so very different). But no amount of contextual reading can

---

7 See http://www.cliffsnotes.com/literature/b/bleak-house/book-summary

replace the experience of engaging with the text itself, and learning its codes and structures of meaning representation.

The same is true in legal education. No amount of contextual reading about the law can replace the experience of engaging with the law itself, which is a unique experience for everyone. Even in an example of experiential learning such as a simulation, we can tell students what they *might* achieve from the project, and give them a range of possible things they might learn, but we cannot tell them what they *will* learn. Each student brings a completely different experience to bear upon the simulation, and each will find a simulation project useful in different ways. The experience of working through the project is unique for each virtual firm, and for each student, and the transactional learning environment, as a domain of artistry, ought to be constructed by staff so that this is recognised.

There is another comparison with reader-response theory. Student/reader expectations are remarkably similar, in that students 'read' the course in the same way that a reader reads a book. The same set of expectations is set up by both groups by the cues that they receive from the object of their attention. The quality of attention is of course quite different, in the sense that students ' attention is quite disparate and broken and focussed on various elements and events. But it is also the case that a reader's attention is broken up, and can move from one part of the story to the next. Thus a reader can flick from one part of a narrative to the next; can refresh his or her memory, can miss out tiresome bits, and such like.

How else might students read a course? Well, rather remarkably, the course changes, as a narrative changes, and students' view of it changes as they move through it. This is quite common on a course, and staff will recognise the phenomenon. This is a function not just of the course itself, but also of the various external factors affecting the course, such as time of year, presence or absence of assessment in various bits of the course; new teachers, new modules, and suchlike. These factors are rather like the external factors that affect a reader's construction of a narrative. Reader-response theory takes account of this: a first reading of a text, it is generally acknowledged, will always be different to a second or third reading. Indeed most aesthetic frameworks take this into account – Dewey's theory of expression, for instance (Mitias 1992). What is striking is how much the design of simulation is an artistic process. And, I would argue, it is so for students immersed in the simulation, too, as we shall see in the next section.

The simulation as social community

In an application such as SIMPLE, perhaps the most fundamental shift happens in the move from student-as-spectator in learning to student-as-participant. Around this shift has grown a culture of playing and simulating which educationalists are exploring as a fertile ground for learning, and an embodiment of one form of situated learning. Nor are simulations simply idle entertainment: they involve us in thinking seriously about issues such as socialisation, identity and governance.

Just as people play in multi-user virtual environments (MUVEs) for a variety of reasons so an educational simulation can have different meanings and consequences for different students. For educationalists involved in implementing such forms of learning, though, there is significant change involved, in both educational theory and practice. Dewey, of course, would have recognised *Second Life* and other MUVEs for what they can be (regardless of whatever else they may be) – one more example of an experimental laboratory school in human relations. For a decade and more now, different disciplines and professions have experimented with forms of role-play and simulation using technology, and recently there have been calls to move to more personalized and participatory modes of learning across a range of disciplines, eg family education (Rocha-Schmid 2010), environmental studies (Barrett 2008), science (McFarlane 2013), software engineering (Lui et al 2006) and of course education (McAndrew et al 2006, Siemens 2007).

Within SIMPLE, students find themselves immersed in curricular structures that are part of how they learn. For example they organise themselves in their firms to carry out the work. They draft a partnership contract for their firm that includes the values and attitudes that they will bring to their work as a firm. They are thus introduced to the simulation environment of SIMPLE via the community work that they do as the firm of four individuals working as a collective. The simulative space thus becomes an extension of the social space where students learn together.[8] There is no rigid separation of virtual world and student social world in our design – on the contrary, we work to bring them together as much as we can. Ardcalloch is linked to the world of learners who use it, whose professional identities and values are created there, and where social networks infuse student lives as well as Ardcalloch itself. The simulation is in fact coterminous with the Diploma, and with student lives as they move through it. It is a learning space where students can slip in and out of professional identity and social roles.

The PI discussion forums are a good example of this. There are three forums. One exists for the PI mentors to contact the transaction authors and leaders confidentially about matters on the transaction that might concern them, or issues they want to discuss before actioning within the transaction. The other two forums exist for students: one is passworded to claimant firms, the other to defender firms. On the forum students ask questions, and make comments in their own persona as students, not as trainee lawyers within a transaction. They can thus obtain feed*forward* on action they are about to take, or feedback on action that they took. While the majority of replies are from either Maharg or Charles Hennessy, students will answer too. Why they might want to answer each other's questions could be linked to a desire for leadership within the group, but it also and perhaps more intuitively might be linked to a desire to help out another player in the simulation.[9] This is true even more so of the private discussion forums that exist

---

[8] See the work of Barton & Westwood (2006 and 2011) in this regard for empirical analysis of group relationships within firms, and for categorization of types of collaborative learning.

[9] One might compare the </yell> command in some MMORPGs, for instance *EverQuest*, -- effectively a cry for help which is automatically transmitted to players close to the player needing help.

within the passworded environment of the firms themselves. The privacy of this forum is often evinced by the informality of linguistic register – abbreviations, txt, etc. But the mini-forum is crucial for enabling the firm to negotiate social action between themselves, other fictional characters and their tutors.[10]

The public discussion forums are thus not just a way of disseminating answers to requests for information to half the yeargroup – they also function as platforms that can build co-operation. They do so by showing how, in professional matters, lawyers seek help, and what they do with the advice that they receive. Together with the mini-forums, the channels of texting, mobile phone audio and email, they create a task environment where students can shift through identities (member of small firm, professional lawyer, student, transactional leader, transactional teamworker, negotiator, researcher, etc).[11] The diverse social environment also create ways in which social and professional norms can be set up, followed, questioned, critiqued.

In this sense the comparison of Ardcalloch with online games such as EverQuest is intriguing. As Taylor (2009) points out, even when players in MMORPGs are engaged in 'griefing' (deliberate spoiling of other players' enjoyment of the game) or in cheating, they do so with 'specific regimes of control and socialized behaviour' (Taylor 2009, 51).

Taylor, and many other perceptive analysts of the online gaming experience (Nick Yee, Aaron Delwich, Constance Steinkulher, Kurt Squire and others) explore the gaming experience because they see it as, *inter alia*, a space for social relationships around simulative activities. As Taylor puts it, 'the meaning of the game is based in something other than formal rule structures, which often leave significant spaces of ambiguity'. The same is true of successful professional education. Part of learning to be professional is learning the 'formal rule structures', and part also is the socialising of behaviour. But part of the professionalising process is also the discovery of one's own voice in which, within the ambiguous, debatable lands, one negotiates the space of one's own construction of what it is to be professional. Transactional learning, thus, is not just about learning which form is sent when to whom, or how to frame letters to an expert witness, or how to deal with conflict of interests. It is also about leading the group, motivating them, scanning the ethical or emotional horizon, or playing a role within a group that is not necessarily your strength, but knowing it is an essential role if the group is to survive and thrive. It is also about coping with the demands of up to six transactions running simultaneously, and dealing with the workload as it comes into the firm.

It is in the firm's social identity that the group often succeeds or fails as a working unit, and this is true of groups that form in online games. As Taylor points out, social networks in online games stretch from the *individual* through to various

---

[10] For an example of how the communicational complexity of the simulation has been constructed over the past eight years, see Maharg (2007) 188, figure 7.6, discussed below.

[11] See Turkle (2007). Note that Turkle, with her usual acuity on the anthropology of identity, focuses on the construction of computers as calculating machines, to computers as simulators.

types of small *groups* (friends, family, 'guild' and ally groups) through to large-scale *raiding parties* – defined by Taylor as 'complex multigroup formations' of up to 72 players, whose activities can be organised almost on an impromptu basis, or can be scheduled far in advance. Compared to the variety and complexity of online quests, tasks and work that can be undertaken in an online games such as *EverQuest,* our firms are fairly uniform in their groupings. They perform transactions as a single group of four, though of course we encourage the delegation of work (however the firm must agree all work that is submitted as assessment pieces) by individuals, pairs or threesomes. Nevertheless, it is clear that we need to create a greater variety of tasks for individuals to pick up and carry out as part of the general work of the firm. Our transactions tend to operate as full-cohort activities (ie raids, in the terms of Taylor's taxonomy).

We also tend to see the yeargroup as the social unit, which limits our abilities to extend the simulation in surprising ways. In this sense the online game is a good example of what, in curriculum design, Hasok Chang has called the 'inheritance principle' (Chang 2005, 387). Chang, a scientist and science historian, designed a course on the History of the Physical Sciences, and by focusing on the work of students across year groups, managed to publish research and writing by successive yeargroups of undergraduate students as a book. Chang's work was based upon what he called the 'directed community' model of teaching-research integration (Chang 2005, 388), where students 'take ownership of their research projects, but they are strongly directed by the teacher and by their predecessors' (Chang 2005, 388). As Chang puts it, 'the collaboration is 'both synchronic (on the basis of a shared overall theme), and diachronic (through the inheritance mechanism)' (Chang 2005, 389).

The 'inheritance principle' in SIMPLE simulations could be developed, for instance, by having a virtual firm form links to 'alumni' – previous yeargroup students who have passed through the firm, and whose work can be made available, and whose monitoring of the firm on some basis would be an invaluable adjunct to the work of tutors, workshop facilitators, and the like.

If the virtual firm could be thus extended in time, the main focus of the virtual firms in Ardcalloch is the transactional present. The best of the firms, those that are true 'learning communities', constantly evaluate their performance as defined by qualities such as care for others, judgment and persistence.[12] If students are compelled, in our curriculum, to form groups, we ask them to do so in order that they learn deeply the values of interdependence, without which other values such as care for others cannot be performed. It is also for this reason that it is the firm, not individuals, who are given collective assessment results in high-stakes assessments. Only if our monitoring of individual work and peer and self-assessments indicate that a person is free-loading or not committing to the quality or quantity of work required do we take steps to remove that person from a firm. In the future structures of the Law Society's PEAT 1 programme (the successor to the

---

[12] As defined in the research by Barton & Westwood (2006)

Diploma that starts in 2011) providers will have the power to note as unprofessional any conduct that gives rise to problematic situations such as those mentioned above. It could be said, of course, that rebellious lawyering starts in rebellious acts against an educative process that sets norms of professionalism; and that group learning inhibits strongly individual interpretations of lawyer conduct. But this is so only if the norms define professionalism consists as a narrow set of codes or coded behaviours. Care, judgment, persistence, courage, wisdom – following Ronald Barnett and others, we take these qualities as the ground of professional behaviour.[13]

The simulation as ethical self-revelation

How might this work within the context of a simulation? In this section of the paper I shall give an example of how students themselves, within the immersion of the Personal Injury transaction, can encounter client-based problems and ethical practice issues, none of which are embedded within the pre-created resources and tasks of the simulation but which arise almost entirely from the actings of the students in the virtual firm involved in the case.

Firm A was acting for the pursuer or plaintiff – an electrician at the University of Ardcalloch who had injured himself in the course of his employment. Students reported to the client on the case in a detailed and well-founded letter, estimating the claim to be worth around £10550 – 12750. At the end, in a section headed 'Further action required by you' the firm asked for instruction to negotiate in the following terms:

> You have indicated that would prefer to not have this matter proceed to court. Please inform us as soon as reasonably possible of your instructions of the amount we would be able to accept on your behalf in full and final settlement of this claim following negotiation with the defenders.

The client replied as follows in his letter:

> As for the total amount of the claim, the wife and I have discussed the matter and we're happy with the sort of amounts you've stated there. As I say, I'm not wanting to go to court, but I do want as much as I can get though I realise you've got to be realistic. I'm not looking for apologies or anything. Do your best and just get as much compensation as you can.

The next letter the client received was a copy of a negotiated agreement, agreeing a sum of £11,000 in full and final settlement of the client's claim. He made two responses. The first was a letter stating he was happy with the amount. The second, however, expressed doubts about his position in the process:

> Just one more thing. I notice that the Agreement is signed by you rather than me, which is fair enough I suppose, if you are my solicitor. I don't know about the details of these things. But it just seemed odd to me that you sent me the agreement signed by you, and I had not said if I agreed with the

---

[13] For further discussion of this, see chapters three and four of *Transforming Legal Education* (Maharg 2007).

amount. I just wonder what would have happened if I had changed my mind?

The client's point was one of several major issues of course. The case had been settled without client instruction, and the amount had been agreed without precise instruction, and the firm had signed the document on behalf of the client.

There are so many issues that arise out of this exchange. On one level, it is the classic instance of miscommunication between client and lawyer. The lawyer misinterpreted the client's general wish as a specific instruction. This could be a misunderstanding by the student lawyer of the process by which instructions are taken and given, their specificity, when they are taken (is it best to do this by embedding the request in a section of a fairly lengthy report, for instance), and such like. There are issues here of the various uses of letters and reports, how to use language with legal import that is at once clear and precise.

On another level this is a version of the deeper miscommunication that happens between lawyer and client because the nature of the relationship that develops between them is one of instrumentalism (one thinks of the classic literature on the 'legal construction of the client', such as Sarat and Felstiner 1986). As a result, they talk past each, and the ethics of the situation becomes problematic for the firm. The client is someone for whom something is done. The client is disempowered, as related by the classic disempowerment literature (Cunningham 1991-92, for instance). The ethics of this lead to an unacceptable conclusion for the client, albeit he was satisfied with the monetary result. Once again, the literature on how clients value process is relevant here to explain the client's puzzled response.

The client's response was of course not the only possible one. What would have happened if the client had refused to accept what was no longer an offer but a binding contract? As the client and all other fictional roles in the simulation, it was the author's decision on how to play this in the simulation. In considering the matter I did what I ask all the PI tutors to do, namely be congruent not just with the trail of previous correspondence but also with the client's feelings. Congruence is thus a Rogerian matter of being aware of one's feelings and desires in the context of the legal transaction (Rogers 1957). In their report firm A had indicated that a settlement of between £10550 and £12750, *ex* contributory negligence, was appropriate. The sum settled was within this range. It felt reasonable to settle, and I was a fairly amenable though not compliant client. But had the client refused to agree to the settlement there is little doubt but that under the ethical standards governing the behaviour of solicitors in Scotland he would have had a claim for incompetent services.

On a final level, there is the value of professional services – and I use 'value' in both senses of the word, meaning something of worth, and a moral concept or standard. There is no *service* as such in this incident, for the legal agent is usurping the position of the client, not only in agreeing to a negotiated settlement without

client assent but in drawing up and signing the agreement. The professional hierarchy has been inverted. The professional network is also broken – if the client had refused, the other side, the insurer, even the university (the insurer's client) would have been inconvenienced. The incident exhibits, in other words, a lack of *judgment*, of professional foresight and contextual awareness of the nature and consequences of decisions. The firm was under pressure of time to complete the negotiation (though they had organised the final stages of the negotiation well enough to obtain client agreement), and this is one reason why they may have settled as they did. At some point, though, they would have come to a decision-point, the *schwerpunkt*: how do we plan the negotiation, finish the endgame and the settlement drafting process? There would probably have been reference back to the client's letter following the report (quoted above). However it happened, the dual decision means that there was not an instant, possibly hasty single decision that was made – rather, this was a strategy that deliberately left the client out of the process, and was a failure of judgment as a result.

The development of judgment, of course, leads us into precisely the arena that Ronald Barnett and other educationalists raise *vis-à-vis* the nature of competence and which is analysed in chapter four of *Transforming Legal Education* (Maharg 2007). In other words this is a classic instance where the quality of judgment can be taught, not overtly, but through situated learning. The student lawyers are in a situation that is precisely of their making. As Kant observed, judgment cannot be taught (Kant 1987). But it can be learned, a distinction he does not make, but which is explicit in much of the educational literature from Dewey onwards. In the above example, the virtual firm's response to the client was analysed in debrief feedback on the simulation, and the consequences of many of the above points were discussed with particular focus on the practice of client relations and professionalism. This professionalism subsists not merely in risk management, but in an acknowledgment that process as well as individual actions affects professionalism, indeed is the way that professionalism can be enacted as care for the Other. Jaggers, once again, provides the contrary exemplar of *dis*empowerment in the scene where we first encounter him in London, where *inter alia* he meets with two clients:

> 'We thought, Mr. Jaggers –' one of the men began, pulling off his hat.
> 'That's what I told you not to do,' said Mr. Jaggers. 'You thought! I think for you; that's enough for you.' (Dickens 1999)

Such ethical discussion and ethical self-revelation, of course, comes with responsibility on the part of staff. As Ross (2011a, 2011b and 2012) has argued, issues of identity, authenticity, ownership and performativity change in an online environment that can amplify 'the destabilising and disturbing effects of compulsory reflection' (Ross, 2011a, 113). Such effects can result in 'rituals of confession and compliance'. These are undeniably potential effects of the educational approaches taken to simulation described here. I would argue, though, that they actually do what Ross states will mitigate the destabilising effects of such rituals, namely to 'ethically engage and support students in these environments with as full an understanding of their complexity' (Ross 2011b, 358). Of critical importance to us

are the collaborative forms of learning adopted in virtual firms, and the forms of democratic, communitarian support, as advocated by Dewey, and adapted to the digital domain.[14] Research carried out since then has confirmed our view (see for instance McLoughlan and Lee 2010).

One way that we ensure students are supported is with sophisticated discussion forums as well as feedback and debrief. The design of forums is rather more complex than might appear at first glance. The first forum design was simply to set up one passworded forum for one half of the class of students who were representing the pursuer (plaintiff) and one for the other half, representing the defender (defendant). However this proved problematic for many reasons, not least that the forums were not sited within the context of the simulation itself.

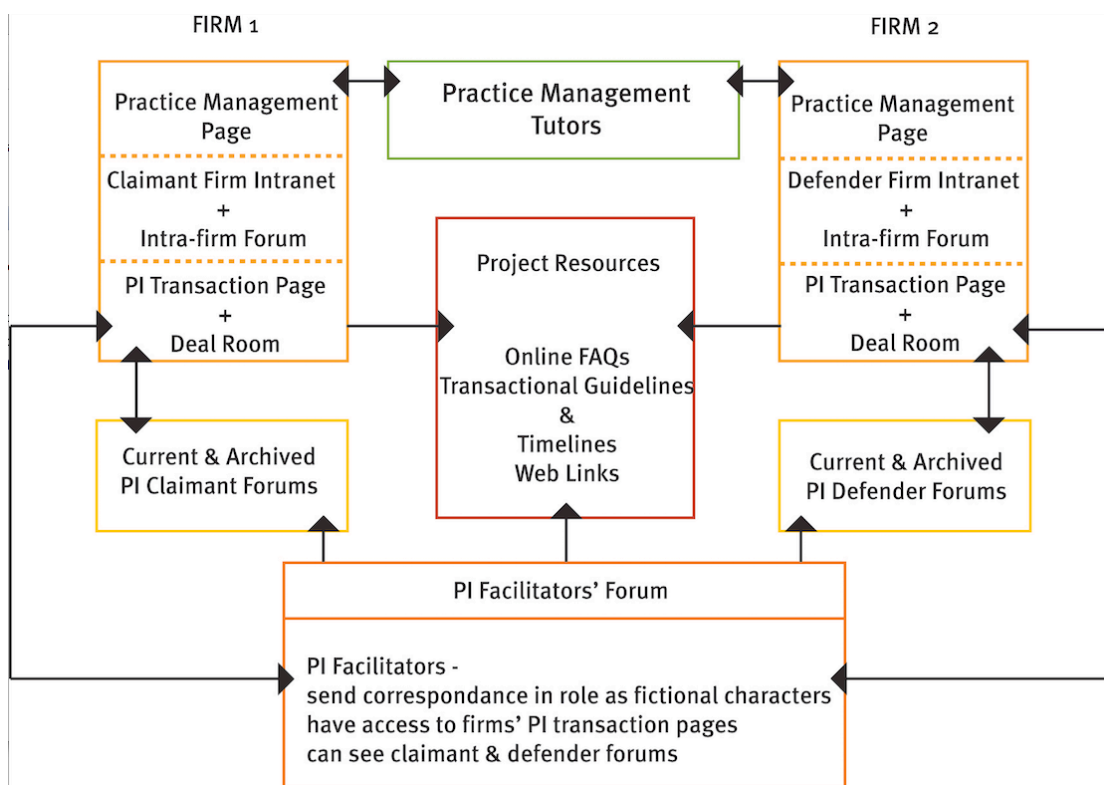Figure 6 shows the design of forums a decade later:[15]

Figure 2: Design of PI Negotiation Transaction environment

By that time the forums were now linked to the firms' case management pages (SIMPLE); and they were linked to the project resources such as timelines and web links, thus helping to create a more immersive experience for students. In addition there were now other forums, intra-firm forums, for private chat within the firm. Using Chang's inheritance principle and with student permission we identified student questions on the open forums that were perceptive or addressed learning

---

[14] And I would argue that our approach also answers Turkle's anxieties about the negative power of simulation – see Turkle (2009). See also Barrett (2008).

[15] Cited and discussed in Maharg (2007), chapter seven.

points in skills or knowledge, and the answers, and made these, cumulatively year on year, a set of growing FAQs. Staff found that, year on year, the number of questions arising on the forums decreased: students were finding the answers on the FAQ list. The growing sophistication of the forums match our growing confidence in design work, but it also matched the growing sophistication of social media applications available increasingly to students on mobile devices (Siemens 2007).

Conclusion

While popular in Business and Medical Education, simulation is not a hegemonic educational practice or discourse in most disciplines. It has the (undeserved) reputation of being expensive to design and deploy, and requiring more time from staff and students in already crowded curricula (Barton et al 2012). And where simulation is used in pilot form, it is seldom deployed on a larger scale in a curriculum, where it is most effective. Schneckenberg is one of many in pointing to systemic reasons why 'the majority of curricula in European universities are stalled in the traditional pedagogical model of knowledge transmission' (2009, 411).

It is not difficulty to see why this might be so. While transformational practices in innovation may flourish for quite different reasons in business organisations (Sarros et al 2008), the wholly different cultures of Higher Education require quite different approaches. A discussion of an innovative simulation is really a discussion about what legal education can be in the future. As will be plain by now, the shift in pedagogical focus creates a new learning space, similar to that opened up by art objects, and by dramatic and musical performance. In a simulation environment such as SIMPLE, there is no beyond text because there is no entirely bounded docuverse called text. Text and all other forms of representation overlap, palimpsest-like, in our consciousness of the world. In much the same way, play itself in MUVEs and online communities is permeable, interweaves with non-play. Professionalism in legal communities is similarly porous with the personal values and attitudes of learners and professionals. What we need to do is to create the opportunities, the clearings in our overcrowded, often incoherent curricula, for the values of play, and the play of virtues to be encouraged, valued and enacted. Simulation is by no means the only way to do this, but it can be one of the most effective.

References

Barrett, M. J. (2008). Participatory Pedagogy in Environmental Education: Reproduction or Disruption? In S. L. A. Reid, P. B. B. Jensen, J. Nikel, & A. P. V. Simovska (Eds.), *Participation and Learning* (pp. 212–224). Springer Netherlands. Retrieved from http://link.springer.com.virtual.anu.edu.au/chapter/10.1007/978-1-4020-6416-6_13

Barton, K., Garvey, J., & Maharg, P. (2012). "You are here": learning law, practice and professionalism in the academy. In Z. Bankowski, M. Del Mar, & P. Maharg (Eds.), *The Arts and the Legal Academy. Beyond Text in Legal Education* (pp. 189–213). Farnham, Surry: Ashgate Publishing.

Barton, K., & Maharg, P. (2006). Simulations in the wild: interdisciplinary research, design and implementation. In C. Aldrich, D. Gibson, & M. Prensky (Eds.), *Games and Simulations in Online Learning* (pp. 115–48). Hershey, PA: Idea Group Ltd.

Barton, K., McKellar, P., & Maharg, P. (2007). Authentic Fictions: Simulation, Professionalism and Legal Learning. *Clinical Law Review*, *14*, 143.

Barton, K., & Westwood, F. (2006). From student to trainee practitioner - a study of team working as a learning experience. *Web Journal of Current Legal Issues*, *2006*(3). Retrieved from http://www.bailii.org/uk/other/journals/WebJCLI/2006/issue3/barton-westwood3.html

Barton, K., & Westwood, F. (2011). Developing professional character -- trust, values and learning. In P. Maharg & C. Maughan (Eds.), *Affect and Legal Education: The Impact of Emotion on Learning and Teaching the Law* (pp. 235–56). Farnham, Surrey: Ashgate Publishing.

Chang, H. (2005). Turning an undergraduate class into a professional research community. *Teaching in Higher Education*, *10*(3), 387–394. doi:10.1080/13562510500122339

Cunningham, C. D. (1991). Lawyer as translator representation as text: Towards an ethnography of legal discourse. *Cornell Law Review*, *77*, 1298.

Dickens, C. (1999). *Charles Dickens Great Expectations: Authoritative Text, Backgrounds, Contexts, Criticism*. W W Norton & Company Incorporated.

Earthman, E. A. (1992). Creating the virtual work: Readers' processes in understanding literary texts. *Research in the Teaching of English*, *26*(4), 351–84.

Ferguson, A., & Lee, E. (2012). Desperately seeking relevant assessment - A case study on the potential for using online simulated group learning to create sustainable assessment practices. *Legal Education Review*, *22*, 121–145.

Findlow, S. (2008). Accountability and innovation in higher education: a disabling tension? *Studies in Higher Education*, *33*(3), 313–329. doi:10.1080/03075070802049285

Fish, S. E. (1980). *Is There a Text in this Class?: The Authority of Interpretive Communities*. Harvard University Press.

Gould, H., Hughes, M., McKellar, P., Maharg, P., & Nicol, E. (2008). *SIMulated Professional Learning Environment (SIMPLE). Final Programme Report.* (p. 93). JISC, HEA. Retrieved from http://simplecommunity.org

Gould, H., Hughes, M., Maharg, P., & Nicol, E. (2009). The Narrative Event Diagram: A Tool for Designing Professional Simulations. In D. Gibson & B., Young Kyun Baek

(Eds.), *Digital Simulations for Improving Education: Learning Through Artifical Teaching Environments* (pp. 101–18). Hershey, PA: IGI Global Books.

Harker, W. J. (1992). Reader Response and Cognition: Is There a Mind in This Class? *Journal of Aesthetic Education*, *26*(3), 27. doi:10.2307/3333011

Harrison, J. R. (2000). Dickens's literary architecture: Patterns of ideas and imagery in Hard Times. *Papers on Language & Literature, Southern Illinois University*, *36*(2), 115–38.

Iser, W. (1978). *The Implied Reader: Patterns of Communication in Prose Fiction from Bunyan to Beckett*. Baltimore; London: Johns Hopkins University Press.

Iser, W. (1980). *The Act of Reading: A Theory of Aesthetic Response* (New Ed edition.). Baltimore: Johns Hopkins University Press.

Jauss, H. (1982). *Towards an Aesthetic of Literary Reception*. Minneapolis: University of Minnesota Press.

Kant, I., & Pluhar, W. S. (1987). *Critique of Judgment*. Hackett Publishing.

Lui, A. K., Choy, S.-O., Cheung, Y. H. Y., & Li, S. C. (2006). A Study on the Perception of Students towards Educational Weblogs. *Informatics in Education*, *5*(2), 245–66.

Maharg, P. (2001). Negotiating the Web: Legal Skills Learning in a Virtual Community. *International Review of Law, Computers & Technology*, *15*(3), 345–360. doi:10.1080/13600860220108139

Maharg, P. (2004). Virtual communities on the web: transactional learning and teaching. In A. Vedder (Ed.), *Aan het werk met ICT in het academisch onderwijs* (pp. 75–93). Nijmegen: Wolf Legal Publishers.

Maharg, P. (2006). On the edge: imagining ICT and professional legal learning. *Web Journal of Current Legal Issues*, (3). Retrieved from http://www.bailii.org/uk/other/journals/WebJCLI/2006/issue3/maharg3.html

Maharg, P. (2007). *Transforming Legal Education: Learning and Teaching the Law in the Early Twenty-first Century*. Ashgate Publishing, Ltd.

Maharg, Paul. (2011). Space, absence, silence: the intimate dimensions of legal learning. In Maharg, Paul & Maughan, Caroline (Eds.), *Affect and Legal Education: The Impact of Emotion on Learning and Teaching the Law* (pp. 283–306). Farnham, Surrey: Ashgate Publishing.

McAndrew, P., Goodyear, P., & Dalziel, J. (2006). Patterns, designs and activities: unifying descriptions of learning structures. *International Journal of Learning Technology*, *2*(2/3), 216–42. doi:10.1504/IJLT.2006.010632

McFarlane, D. (2013). Understanding the challenges of science education in the 21st century: new opportunities for scientific literacy. *International Letters of Social and Humanistic Sciences*, *4*, 35–44.

McLoughlan, C., & Lee, M. J. W. (2010). Personalised and self regulated learning in the Web 2.0 era: International exemplars of innovative pedagogy using social software. *Australasian Journal of Educational Technology*, *26*(1), 28–43.

Mitias, M. H. (1992). Dewey's theory of expression. *Journal of Aesthetic Education*, *26*(3), 41–53. doi:10.2307/3333012

Ravaux, F. (1979). The return of the reader. *The French Review*, *52*(5), 708–713.

Rocha-Schmid, E. (2010). Participatory pedagogy for empowerment: a critical discourse analysis of teacher–parents' interactions in a family literacy course in London. *International Journal of Lifelong Education*, *29*(3), 343–358. doi:10.1080/02601371003700659

Rogers, C. R. (1957). The necessary and sufficient conditions of therapeutic personality change. *Journal of Consulting Psychology*, *21*(2), 95–103. doi:10.1037/h0045357

Rosenblatt, L. M. (1994). *The Reader, the Text, the Poem: The Transactional Theory of the Literary Work*. SIU Press.

Ross, J. (2011a). Traces of self: online reflective practices and performances in higher education. *Teaching in Higher Education*, *16*(1), 113–126. doi:10.1080/13562517.2011.530753

Ross, J. (2011b). *Unmasking online reflective practices in higher education* (PhD). University of Edinburgh, Edinburgh, Moray House. Retrieved from https://www.era.lib.ed.ac.uk/bitstream/1842/6321/2/Ross2012.pdf

Ross, J. (2012). Just What Is Being Reflected in Online Reflection? New Literacies for New Media Learning Practices. In L. Dirckinck-Holmfeld, V. Hodgson, & D. McConnell (Eds.), *Exploring the Theory, Pedagogy and Practice of Networked Learning* (pp. 191–207). Springer New York. Retrieved from http://link.springer.com.virtual.anu.edu.au/chapter/10.1007/978-1-4614-0496-5_11

Sarat, A., & Felstiner, W. L. F. (1986). Law and strategy in the divorce lawyer's office. *Law & Society Review*, *20*(1), 93–134. doi:10.2307/3053414

Sarros, J. C., Cooper, B. K., & Santora, J. C. (2008). Building a climate for innovation through transformational leadership and organizational culture. *Journal of Leadership & Organizational Studies*, *15*(2), 145–158. doi:10.1177/1548051808324100

Schneckenberg, D. (2009). Understanding the real barriers to technology-enhanced innovation in higher education. *Educational Research*, *51*(4), 411–424. doi:10.1080/00131880903354741

Siemens, G. (2007). Digital natives and immigrants: A concept beyond its best before date. [Weblog]. Retrieved from http://connectivism.ca/blog/2007/10/digital_natives_and_immigrants.html

Taylor, T. L. (2009). *Play Between Worlds. Exploring Online Game Culture*. Cambridge, MASS: MIT Press.

Turkle, S. (1997). *Life on the Screen: Identity in the Age of the Internet*. New York: Simon & Schuster.

Turkle, S. (2009). *Simulation and Its Discontents (Simplicity: Design, Technology, Business, Life)*. Cambridge, MASS: MIT Press.

Paul Maharg

Australian National University College of Law
Nottingham Law School
Professor of Law,
paul.maharg@anu.edu.au
Phone Nr.   UK: +44 (0)7814 700754
                    AU: +61 (0)497 107 375

Paul Maharg (MA (Hons) Class 1, PhD, PGCE, Dip Ed, LLB) is Professor of Law in the ANU College of Law, Canberra, and is currently setting up a legal education centre in the College. He is also part-time Professor of Law at Nottingham Law School. Prior to this he was a Professor of Legal Education at Northumbria University School of Law; and Professor of Law in the Glasgow Graduate School (GGSL), University of Strathclyde. At Strathclyde he was Co-Director of Legal Practice Courses, and Director of the innovative Learning Technologies Development Unit at the GGSL, as well as Director of the two-year, JISC/UKCLE-funded project, SIMPLE (SIMulated Professional Learning Environment – http://simplecommunity.org) and consultant to the JISC/HEA Simshare project (http://www.simshare.org.uk). His authored and edited books include *Transforming Legal Education: Learning and Teaching the Law in the Early Twenty-first Century* (2007, Ashgate Publishing), *Digital Games and Learning* (2011, Continuum Publishers), *Affect and Legal Education: The Impact of Emotion on Learning and Teaching the Law* (2011, Ashgate Publishing), and *The Arts and the Legal Academy: Beyond Text in Legal Education* (2012, Ashgate Publishing). He is co-editor of two book series (*Digital Games and Learning*, Routledge Publishing, and *Emerging Legal Education*, Ashgate Publishing) and has published widely in the fields of legal education and professional learning design (http://ssrn.com/author=272987). He was a member of the Legal Education & Training Review Group (LETR – http://letr.org.uk) in England and Wales. His specialisms include international and interdisciplinary educational design, and the use of technology-enhanced learning at all levels of legal education. He was appointed a Senior Fellow of the Higher Education Academy (2007), a National Teaching Fellow (2011), and a Fellow of the RSA (www.thersa.org). He holds Visiting Professorships at Hong Kong University Faculty of Law and Griffith University Law School, and is 2014 Distinguished

Professor of Teaching and Learning at Denver University Law School.   He blogs at
http://paulmaharg.com. Email: paul.maharg@anu.edu.au.