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CONTENTS

THE STUDENT BEHIND THE AVATAR: USING SECOND LIFE (VIRTUAL WORLD) FOR LEGAL ADVOCACY SKILLS DEVELOPMENT AND ASSESSMENT FOR EXTERNAL STUDENTS – A CRITICAL EVALUATION.[1]

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In 2009 the virtual world Second Life (SL) provided a setting for the flexible delivery, in a sustainable cost effective courtroom, of an advocacy exercise to external students enrolled in a Criminal Law course (Law programs) at the University of Southern Queensland. In doing so SL added an enhanced overlay to the already widely recognized pedagogies regarding advocacy skill development through situated role play, which would not have otherwise been available to external students using alternative communication technology.

"The student behind the avatar: Using Second Life (virtual worlds) for legal advocacy skills development and assessment for external students – a critical evaluation" explains the advocacy exercise skills development program in the Criminal Law course (USQ) as against professional accreditation requirements (Au) and pedagogical value. It discusses the positive and negative aspects of the delivery of the program to external students in a SL courtroom and presents the results of a survey of participating students regarding their advocacy experience in SL.

Keywords: Virtual worlds, Second Life, law, advocacy, skills, teaching, learning.

Introduction

Virtual worlds are 3D digital graphical animated multi user environments that are persistent and interactive, as between networks of people personified by their avatar (Bell 2008: 2). Within some virtual worlds such as Second Life (SL), users can contribute to the creation of

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their environment and engage in business which supports a financially active economy;[2] although access to and navigational use of SL is free.

The use of SL as an innovative teaching and learning (TaL) resource in tertiary education is gradually gaining worldwide momentum. According to Molka-Danielsen and Deutchmann (2009:7) over 190 higher education institutions have engaged in teaching in this virtual world.[3] Education based initiatives in SL such as the merging of Moodle learning management software (Sloodle) (see generally Livingstone and Kemp 2008) [4] will increase its potential and attraction in an educational context as will the new "shared media" capability that allows web pages to be viewed and manipulated in world. The scope for educational activity and the pedagogical value of virtual world TaL are numerous, particularly for online external (distance) education,[5] and discourse on this is becoming more prolific as interest and research increases.

Livingstone and Kemp (2008: 13) group SL TaL activities into several categories: role plays and simulations; group work and team building (community); events and presentations; constructive activities, such as building 3D objects and developing properties. Maharg (2007: 171-175) identifies an advantage of virtual worlds in legal education simulations as a setting in which to practice and reflect on professional legal transactions without real world consequences, and as an assessment, communication and collaborative learning tool. Jakobsdottir *et al* (2009) describes the use of virtual worlds in terms of roles played: location, content, context, community or material.

Recognizing this, the University of Southern Queensland which has a student cohort of over 75% who study in distance online mode,[6] created a virtual campus (USQ Island) in SL

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2   In early 2010 the exchange rate was $260 Linden, the Second Life currency, for 1 AUD.
http://wiki.secondlife.com/wiki/L$_Marketplace accessed 21 March, 2010.

3   Cf Linden Lab, Education Directory: Academic organizations in Second Life (2009)
http://edudirectory.secondlife.com/ accessed 20 December, 2010, which lists 140 (including 5 K-12) entries, however many are missing for example, the University of Southern Queensland and Harvard.

4   Cf Blackboard which is losing market share http://mfeldstein.com/bad-news-for-blackboard-good-news-for-moodle/ and http://www.zacker.org/higher-ed-lms-market-penetration-moodle-vs-blackboard-vs-sakai accessed 21 March, 2010.

5   For reasons such as geographical location, work and care giving commitments, many are choosing to study in distance mode (externally), and online education is making it easier to do so.

6   USQ, Distance and e-learning centre http://www.usq.edu.au/dec accessed 21 March, 2010. A 2020 vision of the University is to be recognized as a world leader in open and flexible higher education http://www.usq.edu.au/hr/polproc/partb/strategy accessed 21 March, 2010.

complete with teaching and meeting spaces, and two courtrooms.[7]   After a Second Life Awareness event on campus, the founding head of the School of Law (Faculty of Business)[8] initiated an investigation into the use of USQ Island to support TaL within the new law programs. The Criminal Law courses were identified as courses which may benefit from its utilization. The authors of this article, one of whom is the course leader for the Criminal Law courses, planned trials for the use of SL in 2009 in three contexts, two of which supported the advocacy skills development component of Criminal Law B and Advanced Criminal Law B taught in second semester:

1. The production of two short advocacy education videos (machinima);
2. Conducting assessable advocacy exercises (moots or mock trials) for external students;
3. Engaging in student consultation with external students.

The development of skills for criminal law practice, and more specifically advocacy, have long been recognised as necessary for meeting minimum standard requirements for legal education and pre vocational competency.[9] The advocacy exercise designed for the Criminal Law (USQ) courses seeks to provide a courtroom role play simulation based on a real case as a method for the development of introductory advocacy skills for both on campus and external students. Because the advocacy exercise is integrated into the criminal law course, it also serves to consolidate substantive knowledge of criminal law and procedure, and as such they complement one another whilst simultaneously achieving their own outcomes (Wolski 2009: 63). The pedagogical values of situated role play in the development of skills, and in this context advocacy, is widely recognized.[10] They include student engagement in a deeper, active, problem-based learning experience, which is congruent with action,

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[7]   Co author Lindy McKeown, played a significant role in creating the SL USQ Island campus. The main court is a replica of the Toowoomba Court (Qld) and there is also an elevated sky court designed without outer walls for purposes of filming educational videos.

[8]   Professor Geraldine MacKenzie, 2008.

[9]   Law Admissions Consultative Committee (Priestley Committee) (Priestly 11); Australian Professional Legal Education Council, Standards for the Vocational Preparation of Australian Legal Practitioners (1997); Law Admissions Consultative Committee Uniform Admission Rules 2008 http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=3043E5A9-1C23-CACD-2244-5630B0BFA046&siteName=lca accessed 9 December, 2010; D Pearce, E Campbell and D Harding, Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission (the Pearce Committee Report) (1987). Modern legal education pedagogy has been the subject of significant research and discourse, see for example M Le Brun and R Johnstone, The Quiet (R)evolution: Improving Student Learning in Law (1994); Paul Maharg, Transforming Legal Education: Learning and Teaching the Law in the Early 21st Century (2007)).

[10]   Including by the students, see for example J Yule et al (2009) for student responses to a survey regarding the perceived benefits of moots.

constructive and authentic learning theories.[11] In that the advocacy situated role play engages students in an activity that will best achieve intended outcomes, it is outcomes based (Biggs and Tang 2007: Ch 1; Ramsden 2003).

Whilst on campus students deliver the advocacy exercise in a moot court the experience cannot be easily replicated for external students. This prompted the investigation and trial of SL as an optional setting for the role play. Different communication technologies each have their own advantages and limitations, depending on the task, adaptability and suitability (Jaeger and Helgheim 2009: 117; Newberry 2001: 2). For advocacy role play simulations media richness is important, the rating criteria for which is "the ability to relay immediate feedback, transmit multiple cues such as body language, permit tailoring the message to the intended receiver, and relay communicator feelings and emotions" (Jaeger and Helgheim 2009: 117; see also Newberry 2001). These criteria are important components of advocacy. For a myriad of reasons, virtual worlds are considered a superior (rich) media in contrast to video conferencing for situated role play (see for example Jaeger and Helgheim 2009: 119).

For the Criminal Law courses (USQ) SL provided an avenue for the flexible delivery of the advocacy exercise to external students; in a sustainable cost effective courtroom setting with synchronous communication (real time), and in an environment where there is a heightened sense of immediacy and social connection. In doing so, SL added an enhanced overlay to the already widely recognized pedagogies regarding advocacy skill development through situated role play which would not have otherwise been available to external students using alternative communication technology.

On the other hand, there are also impediments to virtual world TaL including the digital divide;[12] its adequacy as a non-verbal communication tool; and ethical considerations regarding the introduction of students to a potentially immersive and a sometimes dark virtual world. However the reality is that if educational institutions are going to offer external (distance) education or indeed flexible online delivery per se, then sustainable cost effective computer technology becomes the key (Butler 2008: 226).

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[11]   See for example J Yule et al (2009) which refers to a number of insightful publications on mooting and advocacy some of which are also referred to in Sanson et al (2009); Wolski (2009); Smith (2010); Butler (2007); and Lynch (1996).

[12]   "The disparity in skill readiness and ability to access computers and the Internet together with the ability to effectively use this technology to enable full participation". Australian Flexible Learning Framework Quick Guide Series: Definition of Key terms used in e-learning, http://pre2005.flexiblelearning.net.au/guides/keyterms.pdf accessed 18 March, 2010. This divide can operate on an institutional as well as academic and student levels.

This article will detail the trial of SL in supporting the Criminal Law courses offered at the University of Southern Queensland. It will explain the advocacy exercise program and how it is delivered and then go on to explore some of the pedagogical benefits of, and impediments to, the use of SL as a TaL resource for the exercise. The relative merits of using SL in this context will be considered in the light of existing literature on advocacy skills development and online virtual world TaL, and student responses to surveys regarding their experiences with SL in the criminal law courses in 2009.

The advocacy exercise

The School of Law operates on two campuses: Toowoomba (regional South East Queensland) and Springfield (outer suburban Brisbane). The enrolment status of students in the School of Law (Faculty of Business) law programs, are approximately 30% on campus and 70% external. Unless external students attend the occasional intensive on campus session, or visit the campus, they study courses wholly online.

Within the undergraduate law (LLB) and the postgraduate law (JD) programs there are two criminal law core courses.[13] Criminal Law A and Advanced Criminal Law A are foundation courses which take students on a journey through the Queensland criminal justice system from arrest through to sentencing and appeal. These courses cover a range of offences that would most commonly be encountered by criminal law practitioners in the Magistrate and District Courts, and introduces some excuses to criminal responsibility, general principles of sentencing and ethics in a criminal law context.[14] Building on this foundation Criminal Law B and Advanced Criminal Law B extends knowledge of the Queensland criminal justice system covering some of the more serious criminal offences, and associated excuses and defences, the sentencing of serious violent offenders and miscellaneous criminal law concepts such as double jeopardy.[15] Skills which are targeted for development in the courses include research, problem solving, writing and advocacy.

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[13] The enrolment status of students involved in Criminal Law B in 2009 were 43% on campus and 57% external for the undergraduate degree program, and 3% on campus and 97% external for the postgraduate degree program.

[14] USQ Programs and courses, Course synopses LAW2205: Criminal Law A (2010) http://www.usq.edu.au/course/synopses/2010/LAW2205.html accessed 26 March, 2010.

[15] USQ Programs and courses, Course synopses LAW3423: Criminal Law B (2010) http://www.usq.edu.au/course/synopses/2011/LAW3423.html accessed 26 March, 2010.

Advocacy is a focus for skills development in the Criminal Law B courses and is assessed by way of an advocacy exercise. The exercise requires students to deliver written and oral submissions on a criminal law matter from either a prosecution, defence, appellant or respondent perspective. The exercises based on appeals are reserved for the postgraduate students enrolled in the JD program, and the undergraduate exercises are based on trials and sentencing. Two or four students are allocated to an exercise, each acting as opposing counsel to present legal arguments at a hearing before a judge; a member of the teaching team for the courses. Oral submissions must be delivered in 10 minutes, extending out to 15 minutes depending on the number of questions asked by the judge. The exercises which are based on real cases are kept as simple as possible so as to avoid overwhelming the students. They are also linked to substantive areas covered by the course so that substantive knowledge is also developed and assessed.[16] Throughout the semester, and after substantive course content relevant to the advocacy exercise is covered, the advocacy exercises are progressively released and students are given two weeks to prepare and then present written submissions and then oral arguments.

Resources provided to assist students prepare for the exercise and scaffold advocacy skills development include: class instruction on advocacy, a recording of which is posted onto the course area of the online learning management system (Moodle) for external students; a study guide, including links to useful internet sites with information and videos on advocacy; references to texts and a discussion forum. In addition two educational videos, produced in SL (machinima) using avatar actors with professional voice over's, are available for students to view:

- "Advocacy", introducing the fundamentals of advocacy; and
- "Advocacy demonstration", comprising snippets of a scripted situated role play in the USQ SL Island Courtroom.

Statistics obtained from the Moodle logs for the courses indicated that most external students viewed the videos with some viewing them several times. The statistics also showed that whilst the videos were shown to on campus students in class time, many also viewed the videos again online.

The exercise is assessed at an introductory skills development level. Feedback is provided by way of a criteria referenced assessment sheet, including original comments. For on campus and SL students additional feedback is provided by way of discussion following the exercise.

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[16] For a useful discussion regarding concerns about the complexities and negative impacts of traditional mooting particularly in the context of appellate mooting refer to Wolski (2009).

Many students are excited by and look forward to taking part in the advocacy exercise, viewing it as a quintessential experience in or a rationale of their choice to undertake the study of law. Others however approach the experience with trepidation. Whatever their feelings for many, participating in the advocacy exercise will play a role in validating their choice to study law and future professional directions. The learning experience extends beyond discipline and skills development, and the importance of building student confidence is something that was considered in its design and the teaching team is mindful of in its implementation.

On campus students deliver their oral submissions in a courtroom setting during scheduled class time.[17] External students are given three options for delivery:

1. attendance on campus at Springfield or Toowoomba on nominated days during recess;
2. attendance on nominated nights in the USQ SL Island Courtroom (photograph below); or
3. a digital recording, including responses to two or three questions they anticipate could be asked by the presiding judge.

In so far as the exercise is an advocacy role play that replicates a real world criminal matter and for most, trial environment, students are participating in authentic learning and assessment (Lombardi 2007). Unfortunately for the external students who opt for delivery of oral submissions by of way a digital recording, this realism and with it some of the pedagogical benefits of authentic situated role play and post exercise discussion and feedback, is somewhat diminished.

USQ Island Court (Second Life)

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[17] A dedicated Moot court on the Toowoomba campus and in a teaching space, with courtroom furniture, on the Springfield campus.

In 2009, 20% of the external students enrolled in the Criminal Law B courses elected to participate in the SL courtroom advocacy exercise,[18] including one residing in New York and interestingly, several who resided in Brisbane and could have done the advocacy exercise on campus at Springfield.

The students gained access and were inducted into SL by way of tutorials posted onto the Moodle course site. The tutorials provided links to the software to download and the location of USQ SL Island where custom orientation materials were provided. It is estimated that these tutorials would have taken approximately one hour for students to complete successfully; that is to develop basic SL navigation, communication and avatar control competencies that would be sufficient for students to undertake the exercise. The tutorials circumvented normal access into SL via Orientation Island, avoiding the need to complete SL provider tutorial requirements which would have involved the investment of considerably more time. Two orientation sessions were then conducted in world on USQ SL Island in order to ensure that students were comfortable with and confident about doing the exercise in SL. The exercises were then conducted throughout the latter part of the semester on nominated evenings, using home computers, before presiding avatar judge Eola Azalee.[19]

Only a few problems were encountered during in world activities; communication, as a result of inappropriate headsets; lagging, due to bandwidth and or SL server issues; and on several occasions students experienced difficulty coming in world (one due to dial up access issues). These issues did not affect the actual delivery of oral submissions for the advocacy exercises which were all completed successfully on the original dates scheduled.

Student consultation sessions for the courses were also offered once students were inducted into SL, and included a disability student who came in world but interestingly chose not deliver their advocacy exercise in world electing to do it by way of a digital recording instead. On their own initiative the SL students also formed a study group conducting several study group sessions, including a session for another course in which the participating students were also enrolled. Some of these students still intermittently meet in SL.

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[18] 27% elected to do the exercise on campus and the remaining 53% submitted a digital recording.
[19] Aka Eola Barnett.

The student experience

Student views on their SL experience were ascertained by way of responses to the student evaluation of the courses and a focused survey conducted at the close of the semester. [20] Via a series of questions seeking Likert scale responses (strongly disagree to strongly agree) the focused survey canvassed a variety of issues relating to the SL trail, from ease of use of the technology through to learning experience. The overall response was positive.

All respondents to the focused survey found it fun and exciting, and enjoyed using SL as part of the course; recommended the continued use of SL; would take another course that used SL. All agreed or strongly agreed that SL offered opportunities for interaction and communication, and in so far as communication was concerned all felt like they were communicating with a 'real person' in 'real time'. All but one felt they were able to communicate verbally, non-verbally and express themselves in SL. Again all but one felt that they were able to develop relationships with their classmates and the course leader as a result of the experience.

In so far as learning was concerned, all respondents either agreed or strongly agreed that SL was engaging; beneficial to their learning; that they were better able to understand course concepts by using SL. They considered that it was an enriching experience.

Prior to their induction into SL only one of the respondents had any prior experience with SL. A third were not confident computer users, and half had never played computer games. All found it easy to gain access into SL, however a third had some problems using SL despite the fact that they found the tutorials clear and believed that they had adequate support in completing their SL activities.

The overall positive response was supported by written comments on the student evaluation of the course where several external students identified the use of SL as a helpful and effective aspect of the course. Comments included: "excellent use of online interaction via SL very beneficial"; "available to meet individually in SL"; "use of SL for assessment task on advocacy was excellent"; "I hope that other lecturers will adopt this technology which provides better access for external students"; "continue with use of SL for external students".

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[20] Approved by the Ethics committee (USQ). The response rate to the focused survey was 42%.

Some initial feedback was also given by students in world following the delivery of the advocacy exercise and included many positive comments that were reiterated in the surveys and other comments including: that the experience was surreal or weird; they were still nervous about the advocacy exercise; that it was awkward not being able to read or give non verbal cues.

Although not specifically mentioned by respondents to the surveys, one feature of the SL advocacy exercise option was that external students who participated in the trial were able to come in world and observe the exercises scheduled for the week just as students were able to do on campus.[21] The educational benefits to be derived by observing and reflecting on others in action are self-evident.

The survey responses confirm the educational benefits of using SL to support external education in an advocacy skills development context. The advocacy exercise engaged students in constructive, experiential and authentic learning, and to be able to offer it to external students, albeit in a virtual world, enhanced their overall learning experience.

In so far as flexible delivery is concerned, SL also provided for a more consistent opportunity for advocacy skills development between the different student cohorts undertaking the same course; on campus and external. As such there was greater coherence with the learning objectives and outcomes of the exercise.

All that is Pedagogy[22]

The University of Southern Queensland, relying on taxonomies such as Bloom's, uses a three level guide for skills development that reflects three levels of learning: foundational; intermediate; and advanced.[23] As the Criminal Law B and Advanced Criminal Law B courses provide students with their first opportunity for developing court advocacy skills in both the LLB and JD programs respectively, the skills are introduced, developed and assessed at an introductory level only. In alignment with the introductory skill level in written and oral

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[21] 26 different exercises were written so that student observers would not derive any content advantage in that observation.

[22] Refer to n 10 and 12 above for useful references to literature regarding legal education theory, particularly in the context of skills development and specifically advocacy (moots).

[23] USQ Learning and Teaching Support, *Thinking about different learning levels for your course,* http://www.usq.edu.au/~/media/USQ/learnteach/Information%20flyers/Gradqualitiesdifferentlevels%20 9%20Dec%2009.ashx accessed 19 March, 2010.

communication, students "compose*[d]* a piece of writing *[written submissions]* that broadly adheres to disciplinary or professional conventions" and then "deliver*[ed]* an oral presentation *[submission]* that demonstrates a general structure and purpose *[advocacy]*".[24] In preparing for and supporting this, students rely on intermediate ethical research and enquiry skills; analytical and problem solving skills; academic, professional and digital literacy skills; and management planning and organizational skills the foundations for which are provided within the criminal law courses and other core course such as Legal Process and Research. Before engaging in the advocacy exercise students have also been introduced to written and oral communication skills in other contexts in other core law courses such as Law in Context. As such, knowledge and skills development is scaffolded and constructed within the criminal law courses and across courses within the law program, building "*disciplinary mastery*", where students must comprehend foundational disciplinary knowledge before they can engage in intermediate and advanced skills".[25]

The advocacy exercise itself is underpinned by situated, authentic, experiential, constructive and problem-based learning pedagogies. Advocacy skills development is scaffolded and constructed occurring by way of the resources that support the task; the task itself; and feedback and reflection following the task (Oliver and Herrington 2003: 13).

Lynch (1996: 77) citing Resnick (1989: 1) identifies three characteristics of constructed learning: "Firstly, there is a process of knowledge constructed, not of knowledge recording or absorption. Second, knowledge is learning-dependent; people use current knowledge to construct new knowledge. Thirdly, knowledge is highly tuned to the situation in which it takes place". Problem- based learning is a recognized pedagogy that is used for "assisting deeper, critical active learning strategies and thus fostering the development of higher quality learning outcome" (Edwards et al 2007: 28. Referring to Ramsden 1992).   The advocacy exercise enables students to build their knowledge and skills based on existing foundations and experiences in other contexts, from course resources and through their interaction with a realistic problem in a courtroom environment.

In so far as the advocacy exercise matches as nearly as possible advocacy in practice, as the nature of the problem on which the exercise is based and the manner in which it is delivered preserves "the complexity of the of the real-life setting" (Reeves *et al* 2002: 6. See also Herrington *et al* 2007 and Lombardi 2007); requires investigation over a sustained period; seamlessly integrates assessment; culminates in the creation of a whole; provides

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[24] Ibid. *[Author inserts]*.
[25] Ibid (Referring to Morgan *et al* (2002)).

opportunities to consider perspectives collaborate and reflect on the experience (Herrington *et al* 2007: 67. See also Reeves *et al* 2002 and Lombardi 2007), then it can be considered authentic learning; described as essentially 'learning by doing' (Lombardi 2007: 2). This is also characteristic of experiential learning and other pedagogical theories also apply, for example action learning which is based on the cycle of exploration, planning and reflection and can be, among many other things problem-based, experiential, collaborative and interactive (McKeown 2009: Ch 6). Feedback and reflection are important components of these pedagogies and complete the scaffolded learning process (Oliver and Herrington 2003:113-114).

Given the pedagogical foundations of the advocacy exercise, what role then can virtual worlds play in supporting the exercise and pedagogy? In a nutshell, Lombardi states that:

> the value of authentic activity is not constrained to learning in real-life locations and practice, but that the benefits of authentic activity can be realized through careful design of Web-based learning environments (Lombardi 2007: 6. Quoting Herrington *et al* 2001).

Rosenberg reiterates and adds that:

> through the power and creativity of simulations and the ubiquitous nature of the Internet, scenarios can be created that rival the real world, making training more relevant, more effective, more challenging, and, where appropriate, more fun (Rosenberg 2006: 47-48).

Even considering cogent arguments by Herrington et al (2007: 82) that it is the "cognitive realism" of the task which is much more important than it's realistic or virtual simulation; that it is "the task itself" which is the "key element of immersion and engagement in higher order learning"; and that "cognitive engagement can be realized without high fidelity immersive virtual reality technologies", it cannot be denied and it is recognised that problem and discipline based simulation in a realistic environment is synergistic and can enhance learning outcomes, especially when resources for a task are a seamless integrated whole (Maharg 2007: 178, 239 and Part 3). Some argue that this type of learning requires real world authentic environments and others, like Rosenberg and Lombardi above, that it can occur in carefully constructed environments; "the skilful management of digital resources can help replicate the scholarly or workplace practices associated with a profession or vocation. Using technology to reproduce real-world practices can bring learning to life and

build learners' confidence as they develop professional skills" (JISC 2009: 19. See also Jones 2007: 470).

The opportunity presented by SL for the flexible delivery of the advocacy exercise in a replica virtual courtroom involving real time communication, interaction and feedback, and particularly the ability to ask questions during the exercise as happens in real life supports relevant pedagogy.

In addition to making the experience more meaningful, the virtual courtroom is stimulating and motivational. It arguably offers a more explorative, positive and fun (Morse *et al* 2009: 184; Balkun *et al* 2009: 147) learning environment than alternative visual communication technology conferencing options have to offer. The virtual courtroom also gives a heightened sense of presence in an environment where students perform as an advocate, engage in appropriate behavior and where demeanor and appearance does matter.

As many external students study wholly online, offering a form of connection though virtual worlds can only enhance their university and learning experience. The students who participated in the SL advocacy exercise trial confirmed this by facilitating, on their own initiative, study groups in SL during the same semester of the trial. In a virtual world student interaction with content, other students and instructors, albeit behind their avatar, increases perceptions of verbal and non verbal immediacy (Maharg 2007: 243 and Anderson 2009: 194), social and psychological presence and sense of connectedness (Albion 2008; JISC 2009: 40; Steventon *et al* 2008: 976), all of which have significant positive impacts on student motivation and corollary learning experience (Albion 2008; JISC 2009: 40; Maharg 2007: 245). The value of social connection in online TaL cannot be under estimated; "Learning is a social activity as well as a cognitive one, and unless this 'sociability' is guaranteed -- only the most motivated students will persist" (Brennan 2003: 39). For the digitally bred generation "social relationships assume particular importance" (Carver and Cockburn 2006: 4). It is also recognized that this generation also "prefer 'active learning' or learning experiences that engage the student actively within the learning process and encourage them to construct their own learning by 'doing' rather than simply being told" (Carver and Cockburn 2006: 13).

Although the development of online TaL can be costly (Cunningham *et al* 2000: 1), considering that universities have already invested in technology infrastructure, access to SL is free and the costs of setting up a virtual campus,[26] or in this context a courtroom,[27] in SL is

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[26] Establishment cost of US$700 and approximately US$1770 per annum (2009).
[27] US$200 (2009).

comparatively minimal, the use of SL is cost effective both as a location for TaL and as medium for creating educational videos (machinima). For universities which use Moodle as a TaL management system there are further benefits as materials already created and used online can be easily integrated into SL. Using existing platforms such as SL to enhance rather than immerse TaL avoids dangers of the online technology burden that some universities have faced to their demise: "were so bleeding edge we're hemorrhaging" (Cunningham *et al* 2000: 2).

Costs are also reduced if SL is adopted as a TaL platform for flexible delivery within courses within a program and across programs within the institution. If SL is to be adopted the aim should be to maximize its utility, which makes sense from both a cost as well as a student familiarity perspective; the results of survey for the advocacy exercise trial support this.

Impediments

The digital divide is arguably one of the biggest impediments to the effective use of virtual worlds in TaL. Although this concept is more often applied in the context of student users in terms of their access and ability to use technology, the digital divide can also operate on an institutional level in terms of appropriate institutional commitment to and support for innovative technologies, and academic staff ability and confidence to effectively use the technology; [28] as the years pass more and more incoming students are "digital natives" whilst many academic staff remain "digital immigrants" (Note Butler 2007: 11 and Carver and Cockburn 2007: 8. Terms coined by Prensky 2001).

Institutional commitment is imperative for the support of technological innovation in TaL. Appropriate funding will need to be directed to the acquisition of ICT to support activities and pedagogy, as identified by staff, and support services, which will include training (Enyon

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[28] For a summary of literature on "the effectiveness of dissemination and implementation of innovations in teaching and learning in Australia and overseas" see B dela Harpe and A Radloff, "Lessons learned for three projects to design learning environments that support 'generic' skill development" (2006) 1(2) *Journal of Learning Design* http://www.jld.qut.edu.au/publications/vol1no2/documents/lessons%20learned.pdf accessed 21 March, 2010. See also J McKenzie, S Alexander, C Harper, and S Anderson (2005) *Dissemination, Adoption & Adaptation of Project Innovations in Higher Education*, A report for the Carrick Institute for Learning and Teaching in Higher Education, University of Technology (2005) http://www.altcexchange.edu.au/system/files/handle/Dissemination%2C%20Adoption%20and%20Adaption.pdf accessed 22 March, 2009; and R Enyon, "The use of ICT's for teaching and learning in law education: some innovators' perspectives" [2006] 3 *Web JCLI* http://webjcli.ncl.ac.uk/2006/issue3/eynon3.html accessed 22 March, 2010.

2006). In terms of some technologies, timely decisions will have to be made one way or another as to whether the proposed innovation will be supported; "institutions report reluctance to facilitate the use of immersive virtual worlds due to concerns over firewalls and the supply of the necessary resources such as sufficient bandwidth" (Steventon et al 2008: 2). Due recognition is also important as the investigation, implementation and management of innovative technology in courses is time consuming and relies on the good will, personal interest and enjoyment (Enyon 2006) of academics who recognize the educational benefits that the technology has to offer, but who are still required to meet other commitments for purposes of appraisal and advancement; the academic overload dilemma.29 Where funding or recognition is wanting, it will lead to a culture of resistance. Academics who are reluctant to accept the technology invasion or unwilling to investigate the potential for online TaL are unlikely to change if institutional commitment is half hearted or driven primarily by managerial economic and marketing priorities (see also Pastellas and K Maxwell 2005; Enyon 2006; Butler 2007).

In so far as students are concerned the digital divide is slowly closing but will never disappear as technology continues to develop. Access to appropriate hardware and high speed internet connection will invariably remain an issue for some; however technological competency may not, at least not to the same degree that it is today as we still have digital immigrants on board. Even if students are competent in the use of technology the challenge then becomes meeting the learning technology preferences of the student cohort in order to enhance their learning outcomes (Carver and Cockburn 2006: 13). At the end of the day learning in a virtual world will not be attractive to everyone.

For some, virtual worlds present a "steep learning curve before students can fully utilize them for learning -- The more immersive the online environment gets the more complex it becomes to use" (Pfeila *et al* 2009: 227). One of the authors, a self confessed technophobe, sometimes described Luddite and very much a digital immigrant, found it easy enough to acquire the rudimentary navigation skills necessary to conduct the advocacy exercise but is finding it difficult to master, particularly avatar animation. In its present form learning to master navigation and avatar animation in SL may be an impediment to many, even if only

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[29] Academics first and foremost need to be discipline qualified and specialists in their field. They are also educationalists, requiring knowledge of education theory, and participate in administration. Both of which, together with technology, support the academic role in teaching and research. The technology competency required relates not only to the technology used within their discipline profession and within the educational institutions in which they work, but also the technology that will support their teaching. Academics are also required to perform services back to their discipline profession, education and community, and are now also engaging in marketing.

from a time constraint perspective. This together with communication limitations may present difficulties for students and "any difficulty students or tutors face in handling the virtual world itself will unnecessarily decrease the quality of the learning/teaching experience" (Pfeila *et al* 2009: 233. See also Butler 2007).

Communicative confidence is a key to successful advocacy (see generally McCarthy 2006) and relies on both verbal and, arguably to a lesser extent, non verbal cues and as such a sense of self awareness and the awareness of others; although ultimately one would hope that cases are won and lost on their merits (a sentiment shared by many see for example Kozinski 1997; and McCarthy 2006). The effective use of SL as a non verbal communication tool requires a mastery of avatar animation, which takes time (Sanson *et al* 2009), and even then the richness of the communication is still considered deficient (Morse *et al* 2009: 194; Yule *et al* 2009: 242). For self awareness a visual of your avatar's animations, which is not always possible, is also important and even then for some there can still be a sense of detachment. One would think that as technology improves so to will this aspect of virtual world 'reality'. However one also wonders whether the avatar interface will ever replicate the level of self awareness required and as such the truly authentic experience (Yule *et al* 2009: 242) that comes with real world advocacy.

It is also easy to jump to the conclusion that the "digital natives" will take to SL or other virtual worlds like ducks to water, after all they are technology (including media) savvy and may indeed "assume a technologically enabled context in which to learn" (Carver and Cockburn 2006: 3). In the case of virtual worlds, it has been suggested that because students are from a generation which has grown up blending virtuality with reality, in some senses virtuality has in itself become a reality (Herrington *et al* 2007: 81). However, as pointed out by Carver and Cockburn students are more likely to "engage better with materials anchored within their own experience" (2006: 3. See also Carver and Cockburn 2007). So whilst they may find it easier to acquire navigational and animation competency largely as a result of playing virtual 3D games, because many students "have never taken part in an online community -- and see social networking as having value only to support face-to-face socializing -- they may see the use of virtual world technologies as 'weird' or 'sad'" (Steventon *et al* 2008: 2. See also Sanson *et al* 2009: 249).

There is a real difference between 'real live' interactions and 'virtual world' mediated avatar to avatar interaction. In a virtual world some may struggle with identity and as a result may not find SL attractive or if engaged in a SL educational activity, feel disconnected (Savin-

Baden 2010: 25).[30]   On the other hand others, for a variety of personal and cultural reasons, may find this 'semi-anonymous', 'once removed' or 'standing in another's shoes' interaction attractive and beneficial (Bell and Pearce 2009: 51; Sanson *et al* 2009: 248). In the Criminal Law B course offering in S 2 2010, two on campus students requested if they could do their advocacy exercises in SL as a result of performance anxiety issues. As such, these students were afforded the opportunity of engaging in a possibly less stressful and more meaningful learning experience as a student behind an avatar.

Considering these issues and pending further research into TaL experiences in virtual worlds, it may be prudent to use virtual worlds as supplemental in flexible delivery (Steventon *et al* 2008: 981) and as such an optional TaL resource. In the absence of providing a truly authentic advocacy experience, if one outside of a real courtroom indeed exists, virtual world technology can provide a situated simulation alternative. It then becomes a matter of assessing the cost effectiveness, availability, suitability and richness of the technology chosen as against other options and the task, taking into consideration the level at which it is directed; introductory, intermediate or advanced. Additionally, the use of technology serves a subsidiary learning experience in itself, and whatever the student response is to virtual world TaL, it has been argued that situation and technology adaptability is a necessary quality for vocational competency (Yule *et al* 2009: 231; Butler 2008: 213).

A further potential impediment is presented in the form of ethical considerations regarding the introduction of students to an immersive world and all it entails, the darker side of which is subject to periodic media scrutiny; drug and sex simulations, and crime.[31]   Universities using SL as an educational platform will need to investigate the legal implications of this, and employ mechanisms to deal with it.

Verification of identity, especially during an assessable task, is also a potential problem. However this is a problem in any online class and in fact there is no guarantee that an external student or an on campus student who submits an assignment was the actual author. As in all online learning situations, the best effort must be made by staff to be wary of this and ensure they know their online students.

Finally there are also concerns regarding SL provider (Linden Labs) problems in that SL longevity cannot be guaranteed; there are questions of inherent instability due to traffic and

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[30] To some extent this could be overcome by personalizing ones avatar by way of appearance and by using first names.

[31] Although during the trial at USQ nothing untoward was encountered, others have been less unfortunate see for example Sanson *et al* (2009: 253).

bandwidth requirements; content control; backup; as well as tentative legal issues, for example, intellectual property (Pfeila *et al* 2009: 234; 237; Sanson *et al* 2009: 254). However with increasing outsourcing of technology by institutions, these are risks that go beyond virtual worlds. More solutions are becoming available for on and off campus hosting of federated worlds owned by the universities themselves such as those created using OpenSim and Hypergrid software.[32] This will allow universities greater control of their own destiny and distance them from commercial providers of worlds shared with other activities not of an educational nature.

Conclusion

SL is an easily accessed and cost effective virtual world that can greatly enhance the learning experience of external students, allowing for a 'richer interaction' in terms of greater engagement in role play tasks, real time communication and a sense of presence (Mazoue 1999: 104: Love *et al* 2009: 67-69).

The conduct of the criminal law advocacy exercise in a SL courtroom provided a setting in which advocacy came to life for external students, giving greater scope for motivation, engagement and a more meaningful learning experience. The use of SL in the manner it was used did not involve the juggling of pedagogical virtues to the extent as seems to be the case with certain other forms of online learning (Steventon *et al* 2008). Rather, in the simple context that it was used, SL provided an enhanced overlay to and complemented the already existing sound TaL pedagogy of an activity that would not have otherwise been available, to a similar approximate extent that it was to on campus students, to external students. Even considering SL impediments and taking into account the fact that the advocacy exercise is aimed at developing introductory level skills, the cost effectiveness of SL, the benefits of flexible delivery and the positive response of students to the trial, there is sufficient justification for its continued use.

Nothing done in a TaL context is truly authentic in the sense that TaL does not involve real world work related consequences. The aim then becomes to make it as authentic as possible given operative restraints. SL as a location for advocacy role play goes some considerable way to achieving authenticity in online learning and external education.

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[32] For example New Zealand Virtual Worlds Grid http://nzvwg.org/ accessed 15 September, 2010.

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