

EQUITY, DIVERSITY AND INCLUSION THROUGH ONLINE LEARNING: USING A MASSIVE OPEN ONLINE COURSE (MOOC) TO FACILITATE ACQUISITION OF SPECIALIST LEGAL KNOWLEDGE

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ABSTRACT

This article explores the capacity of online learning to enhance access to legal education, including by transcending cultural, gender, age, socio-economic and educational boundaries, raising interesting possibilities for the sharing of legal knowledge and the future of legal education. Using data from a University of New South Wales (UNSW) business law Massive Open Online Course (MOOC), *International Franchise Law: The World is Yours*, this article discusses the capacity of online learning for extensive outreach, including by benefiting learners in countries adversely affected by instability and where the opportunity to engage in learning about specialised topics might not otherwise be present. The article also considers how online learning tools, in this case a MOOC, can reduce cultural and social limitations, including by empowering participants who are challenged by their circumstances, thereby extending learning opportunities to, and better engaging learners, including, by reducing or eliminating additional expenses associated with seeking to pursue an education. The article also recognises that in spite of benefits in terms of outreach and access across various levels, the study of law through online means (such as MOOCs) presents several challenges. Drawing on the experiences of UNSW's *International Franchise Law* MOOC, these challenges are also discussed.

INTRODUCTION

'Legal education is in a constant state of development and change. Sometimes the changes are dramatic'.¹ Enter the MOOC – a Massive Open Online Course that delivers education to anyone who can access the internet. MOOC's are courses that are delivered online to an unlimited number of users and are usually available free of charge. They can consist of voice-recorded or filmed lectures, reading materials, case studies, and assessment tasks. The entire course is prepared in advance so that from the moment it is opened participants (known as learners) can proceed at their own pace and interact with academic leads, and teaching assistants can interact with each other through discussion forums.

¹ M Kirby, 'Online Legal Education in Australia: The New CQU Law Degree' (2011) 34 *Australian Bar Review*, 237 at 241.

Relying on research data emanating from a MOOC that was designed to take the learning of (franchise) law across the globe, as well as findings from the literature, this article demonstrates how online learning (in this case, using a MOOC), can transcend barriers to learning, including geographical, cultural and financial barriers. For example, for learners who cannot afford the cost of traditional university education, there is no fee or financial commitment beyond the ability to access the internet. Access and time barriers also dissipate, as MOOCs are easily accessed at any time and in any location (such as on mobile devices). With all spoken portions sub-titled, hearing-impaired learners, commuters and those not wanting to disturb others can continue their learning as, when and how they choose. This approach to online learning can also remove psychological barriers. For example, irrespective of the age, confidence-level or background of the learner, participation in education via a MOOC is personalised and personal, while at the same time, learning is conducted within a community of learners. The article will discuss how the learning of law can be delivered in this way, using technology. Before concluding, the article will also identify challenges for universities seeking to provide globalised online legal education using MOOCs.

BACKGROUND

In 2014, as part of its blended and online Teaching and Learning strategy, the University of New South Wales (UNSW), committed to funding a suite of MOOCs across several disciplines with the six objectives being:

- ‘to learn from the experience of developing and delivering MOOCs and from data collected from our MOOCs to further improve the quality of on campus and blended learning programs/courses across all faculties at UNSW and to build institutional capacity for quality learning;
- to conduct research into effective learning and teaching through the use of emerging practices in the context of MOOCs;
- to provide widespread support for remediation in key areas (e.g., English, Maths, Science) to current and prospective UNSW students;
- to deliver non-accredited continuing professional education opportunities in defined professional areas;
- to enable admission by ensuring students have opportunities to develop and demonstrate the necessary pre-requisite knowledge and skills to be admitted to a UNSW program/course; and

- to market and recruit students by showcasing quality UNSW program/course and teacher expertise and to help develop student understanding of the standards required to pursue a program/course at UNSW'.²

Several considerations motivated UNSW's strategy, including an interest in testing the capacity of the online environment to deliver personalised, independent and self-directed learning to globally-based students. This interest was coupled with a forward-looking strategy, propelling the researchers and educators to unpack options for delivering learning opportunities to students at times when students want to study (such as, when they can access courses via the internet, including through MOOC-learning), rather than when the university dictates they need to be available to attend lectures or seminars, workshops or tutorials, or engage in assessment activities.

The *'International Franchise Law: The World is Yours'* (IFL) was the first MOOC in the UNSW Business School to be funded, and remains the only MOOC globally on franchise law. It was offered twice during 2016 on the FutureLearn online platform and had over 5000 enrolled learners in total from over 165 countries. The course was modelled on an elective that is currently offered in the UNSW Bachelor of Commerce program, International Franchise Law. After the first offering, the course attracted the attention of the franchise sector representative body, the Franchise Council of Australia, which recognised it for accreditation of continuing professional education points. It was also used as micro-credentialing for an undergraduate business course, also raising interesting possibilities about how online learning might be used in influencing the future of education, in the discipline of law, as well as in other disciplines.

The pedagogical ideology behind the IFL MOOC was what is known as 'the connectivist MOOC (cMOOC)'³ The 'cMOOC emphasises collective, collaborative learning',⁴ by sharing experiences and observations. 'MOOCs build on the dynamic engagement of hundreds to thousands of students who self-organise their involvement according to learning skills, objectives, previous knowledge, and their shared interests'.⁵ Through the MOOC, learners were provided with digital opportunities to participate as co-creators and directors of their own education and to experience learning that is relevant to each learner, motivating them to continue with their learning. This led to observations, essential for lawyers involved in cross

² UNSW Learning and Teaching Grants and Fellowship Program, 2014 Information Booklet, pp 7-8.

³ L Yuan and S Powell, "MOOCs and Open Education: Implications for Higher Education" (2013) JISC CETIS 1 at 7.

⁴ L Yuan and S Powell, "MOOCs and Open Education: Implications for Higher Education" (2013) JISC CETIS 1 at 7.

⁵ A McAuley, et al. "The MOOC model for digital practice" (2010) cited in R Samir Adham and K Oster Lundqvist, "MOOCs as a Method of Distance Education in the Arab World – A Review Paper" (2015) 18(1) European Journal of Open, Distance and e-Learning at 123.

border intellectual property registrations, like the meaning of words in diverse cultures, such as:

*“... a popular brand of Toothpaste Colgate ran into some trouble when trying to enter into the Hispanic Markets. In English, the word does not traditionally have a meaning however when translated to Spanish “Colgar” loosely translates to “go hang yourself”.*⁶

Contributions were made by learners throughout the MOOC, leading to feedback including that it was *“...Great to be able to access a well-structured and thought-provoking course. Such a dense subject matter was made more accessible not only by the case study, but by the contributions of participants who took the time to answer questions and post their findings, thank you”.*⁷

The IFL MOOC enabled learners to benefit from specialist legal knowledge and expertise, in ways which would not have been made available to the vast majority of learners, had the learning been conducted in a face-to-face environment. For example, although the business format franchise model is pervasive and raises many cross border legal issues that need to be addressed by practitioners, very few universities globally offer specialised courses on franchise law. Despite the US franchise bar including about 2,500 lawyers, American practitioners, Gurnick and Meiklejohn note that ‘[t]he number of full-time faculty members who teach franchise law is probably even smaller than the number of schools that offer the course’.⁸ The MOOC has extended learning opportunities to learners in an important area of legal education and has opened up the way for “class participation” in “classes” that have no borders, for the sharing of knowledge and the exchange of information among people who ordinarily might not be allowed (for cultural, financial or geographical reasons) to learn from and with one another, and for learning that bends in shape to meet the needs and levels of education of each learner. In this way, the MOOC offers a future for the learning of law that will include, rather than inhibit, that will offer a richness of diversity across all levels of learning and ultimately, that will open the way for the future of legal education that is more inclusive, more collaborative and more equitable.

METHODOLOGY

The research for this article has been drawn from:

- (1) Formal feedback from specially designed surveys and questionnaires, developed by the MOOC team.
- (2) Informal feedback from unsolicited emails and the MOOC online discussion forum.

⁶ A comment made by a learner in the discussion in the importance of cultural awareness Module.

⁷ This comment came from the post MOOC survey March 2016 offering.

⁸ D Gurnick and A Meiklejohn, ‘Teaching Franchise Law in Law Schools: A Role for Experienced Franchise Lawyers’ *Franchise Law Journal* (2017) 36(3) 505 at 512.

- (3) UNSW data analytics relating to the MOOC.
- (4) Benchmarking the data from all of the above research sources against the findings from the literature.

To this end, the method has included a mixed approach involving both qualitative research and data (from the surveys and questionnaires) and quantitative research, emanating from the data analytics. Using this research, this article will firstly explain why and how the MOOC was created and then will unpack the particular aspects of the MOOC that render it a possible “best practice” exemplar for the future of legal education. In particular, this potential exists because of a MOOC’s unprecedented ability to transcend learning boundaries and to promote and uphold the values equity, diversity and inclusion, with regard to the learning of law (as well as other disciplines, but the focus here is on legal education). While drawing on the experiences of the IFL MOOC, this article will also discuss theories and literature pertaining to the use of online learning tools, which also demonstrate how, going forward, the use of online learning tools such as MOOCs, will allow for learning (including in the study of law) to be offered to far groups and numbers of learners, than is presently possible, creating greater opportunities for socioeconomic equity, cultural equity and equity of access.

CREATION OF THE MOOC

The MOOC project team comprised specialist academic and non-academic staff, students, external providers and industry experts from Australia, Canada, England, France and the United States. The external service providers included the MOOC platform FutureLearn and Sydney-based educational video production company, Iris Pictures. The small project team collaborated effectively over a period of two years and are sustaining this collaboration to revise materials and disseminate learning, including through publications of the findings from the MOOC project.

Business format franchising is a very widespread, legally complex model of business operation. The IFL course explored the laws and legal considerations appropriate to international franchising through a fictional case study that evolved across six modules. The modules consisted of topics ranging from cultural and legal due diligence to franchise agreements, entry models, real and intellectual property, competition, and franchise-specific laws, cross border tax issues, exit options including listing and insolvency, and social franchising. Matters such as differences between common law and civil law were discussed by practitioner legal experts.

The team produced course materials which included sub-titled videos, comprising six episodes of the case study, 24 academic videos and 10 legal experts’ topic-specific

interviews. Learners were asked to participate in a variety of online activities, which took the form of 24 discussion forums, six 'check your understanding' quizzes, six tests and six online polls. In addition, learners received weekly emails summarising the previous week's learning and introducing the learning for the week ahead. An extensive list of internationally-focused reading resources was provided, including open source and user-pay weekly reading links.

Using a scenario-based learning (SBL) design, built around the fictional case study, and using a digital platform, the MOOC delivered a global but personalised, independent and self-directed learning of (franchise) law. While the SBL is widely adopted in business education, it was novel in the learning of law and to this end, the IFL MOOC is unique in this (legal education) space.

By encouraging learners to take an active and inquiry-based approach to learning through the use of imaginary but realistic scenarios, the MOOC motivated learners to develop their knowledge constructs and skills (e.g. information gathering, critical thinking, problem solving) and apply them to their own contexts and jurisdictions.

The MOOC's influence and inspirational qualities on the experience of learning about the law are evidenced by the fact that 88% of learners who started a module went on to complete it. Data analytics demonstrates that this is the highest level of engagement from learners amongst all MOOCs offered on the Future Learn platform at UNSW. The MOOC was designed with the clear strategy of immersing learners in a safe learning environment, in which they are able to apply learning and make the experience personally meaningful and relevant to their own entry level and particular interest in pursuing the study of (franchise) law. Importantly, the MOOC was created to empower learners who are challenged by their circumstances, including by reducing financial, cultural and social limitations.

WHY DID LEARNERS ENROL IN THE MOOC?

Surveys conducted [about MOOC participation] by researchers at Duke University show that student motivations typically fall into one of four categories: (i) to support lifelong learning or gain an understanding of the subject matter with no particular expectations for completion or achievement, (ii) for fun, entertainment, social experience and intellectual stimulation, (iii) convenience, often in conjunction with barriers to traditional education options or (iv) to experience or explore online education.⁹

⁹ L Yuan and S Powell, "MOOCs and Open Education: Implications for Higher Education" (2013) JISC CETIS 1 at 7, citing Y Belanger and J Thornton, "Bioelectricity: A Quantitative Approach" (2013) at 9.

Based on responses to the post- MOOC questionnaire, the data analytics highlighted three latent dimensions brought a learner to the IFL MOOC, as shown in Table 1 below:

Table 1: Reasons for enrolling in IFL MOOC

Reasons	Component		
	1	2	3
To find out more about the institution running the course	0.789	0.006	0.186
As part of UNSW study or course	0.761	-0.011	0.12
I'm taking this course to find out how FutureLearn works	0.718	0.102	0.025
This mode of study is the only educational avenue available to me at this time	0.686	0.308	-0.198
I'm taking this course because I can fit it round my lifestyle	0.237	0.673	0.052
I'm taking this course to improve my career prospects	-0.203	0.669	0.569
I'm taking this course to do my current job better	0.296	0.637	-0.026
I'm taking this because I want to learn about the subject	-0.348	0.633	0.398
To support a university application	0.3	-0.108	0.856
I'm taking this course to support current or future studies	0.013	0.397	0.79

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

a Rotation converged in 20 iterations.

KMO = .709

The first factor suggests learners' explorative intentions in experiencing a MOOC. The second factor suggests that learners perceive that doing IFL MOOC benefits their immediate career and personal development for lifelong learning and future career adventure. The third factor suggests that learners consider that doing IFL benefits their immediate/near future studies.¹⁰ These factors suggest that in terms of delivering education to a cohort that would not otherwise have been able to access it, learners found the MOOC suited their purpose (for example: 'the only educational avenue open to me' and 'this course fits around my lifestyle').

THE ON-LINE STUDY OF LAW: WHAT THE LITERATURE SAYS

Using online learning, such as MOOCs, clearly offers the opportunity to acquire, expand or develop legal knowledge, through a forum other than a traditional law school or a continuing professional education provider. The 'ubiquitous and seamless access' to MOOCs through the widespread use of tablet computers and smartphones and, more recently, Internet-enabled watches, offers MOOC participants additional ways to engage with their online legal education while on the move.¹¹

Justice Michael Kirby has observed that the growth in the variety of opportunities in law, both in Australia and overseas, '...has led to moves away from inflexible law courses.¹²' Among

¹⁰ Data analysed by UNSW MOOC support.

¹¹ M Sharples et al, Mobile and Accessible Learning for MOOCs, (2015) 1 (4) *Journal of Interactive Media in Education* 1 at 1.

¹² M Kirby, 'Online Legal Education in Australia: The New CQU Law Degree' (2011) 34 *Australian Bar Review* 237 at 239

the changes to the approaches in learning, are increasing moves too, to offer more flexible learning (so that course completion itself, is not the only measure of success). Ferguson et al argue that learners should be able to gain access to a single piece of content, or to a series of discussions, or to find out more about open learning, because ‘... [t]heir paths are multiple and traditional criteria are unlikely to prove sufficient’.¹³ Using the MOOC as an exemplar for learning that provides flexibility, and in that way, is more inclusive and equitable, learners in the IFL MOOC were allowed to set their own goals, not necessarily aligned with outcomes set by the educator, and were able to learn at their own pace, without requirement that they learn at any particular time or in any particular place.

As mentioned earlier, the IFL MOOC provided free education to over 5,000 people from an amazing 165 of the world’s 195 countries. The MOOC reached participants in war torn countries (such as Syria) and other learners who are unable to participate in traditionally offered modes of education because of family, cultural, work or health reasons. Table 1 (below) provides an indication of the diverse national backgrounds of the learners.

Table 2: National origin of IFL MOOC learners

Country	#Registrants	%Registrants
United Kingdom	56	16
Nigeria	15	4
Russian Federation	13	4
Australia	12	3
Bangladesh	10	3
India	10	3
Saudi Arabia	10	3
Ukraine	10	3
United States	10	3
Italy	8	2

The use of the MOOC to extend the learning of law in this way, is in stark contrast to traditional legal education, which has traditionally comprised ‘inflexible law courses’ that in some ways may lack in variety and individual specialisation.¹⁴ MOOCs, on the other hand, by their very nature, are educational mechanisms that can have the effect of transcending typical barriers to education (including geographic location, political and cultural circumstance and the cost of learning) and can benefit learners in countries where the opportunity to engage in learning (for example, because of war and political instability, or because learners are located in remote and distant communities), might not otherwise be

¹³ R Ferguson, M Sharples and R Beale, MOOCs 2030: a future for massive open online learning, in C Bonk et al (eds) MOOCs and Open Education around the World. Abingdon, Routledge, pp 315-326 at 329.

¹⁴ M Kirby, ‘Online Legal Education in Australia: The New CQU Law Degree’ (2011) 34 *Australian Bar Review* 237 at 239.

present (Sharples et al).¹⁵ This was clearly the experience of the IFL MOOC, as demonstrated from the data provided above.

Adham and Lundquist note, that '[t]he majority of MOOC content is ... in English and that could limit access for learners from such countries, as a lower percentage of the population will have experienced the English language to the level needed to take an online course on a MOOC. Most students in developing countries mainly use their local language and only a small proportion of the population is multilingual'.¹⁶ The experience of the IFL MOOS is that the language incompatibility can be partially overcome with sub-titles.

Godwin-Jones also supports Adham and Lundquist's concern about the majority of MOOCs being taught in English and also cautions that the challenge is to increase the number of non-English language MOOCs¹⁷. However, like Ferguson et al, he also recognises that MOOCs will offer greater opportunity for more varied and diverse learning and more options for credentialing, including usefully assessing what mix of learning (here, MOOC components), might optimise learning outcomes, in a way that will allow for online learning to offer more than traditional learning methods or approaches (here, supporting Justice Kirby's view, discussed above).

While the literature cautions that 'the overload of [MOOC] sources, educational knowledge and economic, social and cultural aspects of MOOCs might be considered a huge challenge for learners from developing countries, including the Arabic-speaking countries; for instance, it could be very difficult for learners to participate in MOOC platforms because of a poor internet connection, especially in small towns and rural areas in the region'¹⁸, there are arguments to suggest that the answer is not to "stop" but to "persist" in the fight for INCLUSION, equity and diversity in education, including with regard to the future of legal education. For example, Ferguson et al argue that 'by 2030, the systems that develop from MOOCs will be meeting needs of societies by educating millions of digital citizens worldwide. They will open up access to education and enable people all over the world to enjoy the benefits of learning at scale. This can only happen if there is persistent intent not only from MOOC providers, but also from policy makers and educators'.¹⁹

¹⁵ M Sharples et al, Mobile and Accessible Learning for MOOCs, (2015) 1 (4) Journal of Interactive Media in Education, 1 at 1.

¹⁶ R Samir Adham and K Oster Lundqvist, "MOOCs as a Method of Distance Education in the Arab World – A Review Paper" (2015) 18(1) European Journal of Open, Distance and e-Learning at 129, citing T Liyanagunawardena, S Williams and A Adams (2013) "The impact and reach of MOOCs: a developing countries' perspective" *eLearning Papers* (33). ISSN 1887-1542 Available at <http://centaur.reading.ac.uk/32452/>.

¹⁷ R Godwin-Jones, Global Reach and Local Practice: The Promise of MOOCs (2014) *Language, Learning and Technology* 18(3), 5-15, at 14.

¹⁸ Samir Adham and Oster Lundqvist, no 5, at 129.

¹⁹ R Ferguson, M Sharples and R Beale, MOOCs 2030: a future for massive open online learning, in C Bonk et al (eds) *MOOCs and Open Education around the World*. Abingdon, Routledge, pp 315-326 at 329.

EQUITY

The IFL MOOC is an exemplar of “best practice” with regard to how online learning tools can be used in the study of law to create greater opportunities for socioeconomic equity, cultural equity, equity of access and time. For UNSW in particular, the IFL MOOC magnified the university’s commitment to ‘Equality of opportunity for all our students, staff, and the wider UNSW community, combined with a commitment to the active promotion of equality beyond the University’.²⁰

In the context of where the future lies for legal education, the MOOC’s team experience is that extending the learning of law through a MOOC, is one way in which greater equity can be achieved in legal education, going forward. This is because MOOCs are both online and open access. These characteristics in themselves are a high-level indicator that MOOCs are a method of improving equity in the study of law.

Justice Kirby has identified five advantages of online legal education²¹. He observes that it can serve regional and rural needs, use new information technology, cater for special cultural needs, provide both continuity and change in curricula and supplement online with practical outreach. In regional and rural Australia MOOCs can bridge ‘the vast physical distances of Australia, [addressing] the need for law courses to cater for government and other employees, working in remote districts such as police and those engaged in resource extraction’.²² It may be argued that an online course on franchise law is irrelevant to these people but the lawyers in regional Australia need to be equipped to advise clients about all aspects of the law, including both franchisee and franchisor clients. This is not an area of expertise they can pick up at their local (or even state) law society continuing professional education sessions.

Data emanating from the IFL MOOC, supports Justice Kirby’s statement that online learning can readily cater for special cultural needs. Consider, for example, the need to accommodate prayer time in the Arab world. MOOCs, of course, can be accessed at any time and can be left and re-joined at will. Similarly, ‘where interaction between women and men is limited ‘due to cultural, social and religious reasons in some Arab countries, learning opportunities for females are limited because of gender segregation’²³ Males and females

²⁰ UNSW 2025 Strategy: Our Strategic Priorities and Themes, 7.

²¹ M Kirby, ‘Online Legal Education in Australia: The New CQU Law Degree’ (2011) 34 *Australian Bar Review* 237 at 242.

²² M Kirby, ‘Online Legal Education in Australia: The New CQU Law Degree’ (2011) 34 *Australian Bar Review* 237 at 242.

²³ R Samir Adham and K Oster Lundqvist, “MOOCs as a Method of Distance Education in the Arab World – A Review Paper” (2015) 18(1) *European Journal of Open, Distance and e-Learning* at 134.

cannot meet or communicate freely anywhere they want. MOOCs provide the opportunity for women to access education.²⁴ MOOCs can enable freedom of expression for women so they can communicate in a real world setting (mixed gender classes) meeting and interacting with others in the online or “virtual” classroom – a possibility which might not otherwise eventuate for this group of learners. In the IFL MOOC, for example, women from countries such as Syria and Iraq were able to access the MOOC, supporting the claim that ‘MOOCs encourage people to create networks across local, regional, and national boundaries... to increase participation in the lifelong learning and collaborative practices needed by digital citizens...’²⁵

DIVERSITY

The mere characteristic that MOOCs are ‘massive’ and ‘online’ implies that MOOCs have the potential to ‘bring organised information to very large numbers of people, and much of the literature on MOOCs perceives this development as an unalloyed benefit.’²⁶ The mixture of case studies, assessment tasks, videos and discussion boards enhances ‘the dynamic engagement of hundreds to thousands of students who self-organise their involvement according to learning skills, objectives, previous knowledge, and their shared interests.’²⁷

The IFL MOOC addressed several aspects of diversity, bringing specialist legal education to learners regardless of their age, culture, gender, disability, education level, emerging economy, legal environment, mobility, political stability, or religion. In addition, the approach to learning, through encouraging learners to share about their different backgrounds (educational, professional, jurisdictional and legal, to name a few!), drew students to instantly and generously offer insights into multiple diverse situations such as:

“...from an African perspective, the problem also lies in the unstable political climate and incessant civil wars... as a Nigerian, I noticed that there is no law that gives the definition of “franchise”. One who is interested in expanding their business interest in Nigeria will have to grapple with Indigenization and Nationalisation laws, including laws that relate to the application of the local content. ... laws relating to business and foreign direct investments are littered in our corpus, but franchise law, as it were, is nowhere to be found. ... I intend to learn the best I can.”

²⁴ A Tubaishat, A Bhatti and E El-Qawasmeh, “ICT Experiences in Two Different Middle Eastern Universities” (2006) 3 *Issues in Informing Science and Information Technology* 667 at 667.

²⁵ McAuley, et al. “The MOOC model for digital practice” (2010) cited in R Samir Adham and K Oster Lundqvist, “MOOCs as a Method of Distance Education in the Arab World – A Review Paper” (2015) 18(1) *European Journal of Open, Distance and e-Learning* at 123, cited in R Ferguson, M Sharples and R Beale, MOOCs 2030: a future for massive open online learning, in C Bonk et al (eds) *MOOCs and Open Education around the World*. Abingdon, Routledge, pp 315-326 at 318.

²⁶ P Schrag, “MOOCs and Legal Education: Valuable Innovation or Looming Disaster” (2014) 59 *Villanova Law Review*, 83-134 at 83.

²⁷ McAuley, et al. “The MOOC model for digital practice” (2010) cited in R Samir Adham and K Oster Lundqvist, “MOOCs as a Method of Distance Education in the Arab World – A Review Paper” (2015) 18(1) *European Journal of Open, Distance and e-Learning* at 123

“The concept of culture [video] was an excellent introduction [...] when deciding which jurisdictions are appropriate for expansion, and the different aspects of culture that would be relevant. This allowed [us] to begin pondering beyond mere demand for product in a jurisdiction to wider considerations such as language and business culture.”

“I found a huge difference between Greece, where I come from, to Germany and France where I have also lived and worked....It’s so interesting to hear about everyone’s cultures from different perspectives...”

“For Britain...there are sharp differences between regions. Scotland and Northern Ireland ...have their own legal systems, distinct from English Common Law.... regions come with dialects which include words not found in the standard English dictionary ... even such little differences can be potential pitfalls...and where cross-cultural interaction is concerned, both franchisor and franchisee need to be aware of all the possible differences.”

“Malaysia is a multi-racial and multi-cultural country ... There are many cultural differences between these races which need to be understood.” (learner shared a checklist including legal systems, policies (noting the need to consider any equity restrictions), language, demographic, trends among different races and logistics).

What was clear from the data analytics of the IFL MOOC is that not only were the learners and the learning more diverse, but in addition to that diversity, the learners were far less inhibited about sharing and about expressing their thoughts to one another and to the teaching assistants, than they might have been in a face-to-face law school classroom in front of other learners, including possible those from their own backgrounds.

INCLUSION

MOOCs are said to be a part of the internationalisation of higher education since they occur in the ‘international context of knowledge’ and are a driver of ‘a wider and more inclusive world’.²⁸ In terms of the IFL MOOC, the format, accessibility, content and features of the MOOC embody and uphold the theme of inclusion (valuing individuals, giving equal access and opportunity to all and removing discrimination and other psychical and social barriers to legal education).

Miller and Katz argue that an inclusion ‘breakthrough’ is a precondition to being able to leverage off diversity.²⁹ MOOCs ‘draw on the wide range of individuals that are participating – crowd learning – and they give users the opportunity to participate...at any time and from anywhere in the world’.³⁰ This implies that MOOCs are designed to emphasise inclusion amongst their participants and so will have better access to diversity of opinion and culture, which will ultimately enrich a better crowd learning offering.

²⁸ H Boal and L Stallivieri, “The Influence of Massive Online Open Courses on the Internationalization Process of Higher Education” (2015) 2(2-3) *Digital Universities International Best Practices and Applications* 21.

²⁹ F Miller and J Katz, *Inclusion Breakthrough: Unleashing the Real Power of Diversity* (Berrett-Koehler Publishers, 2002) at 7.

³⁰ M Sharples et al, Mobile and Accessible Learning for MOOCs, (2015) 1 (4) *Journal of Interactive Media in Education*, 1 at 3.

Germain-Rutherford and Kerr suggest that culturally inclusive online teaching and learning modules are contingent on an appropriate instructional design model being selected.³¹

In relation to the IFL MOOC, the post-MOOC questionnaire indicated that 95% of learners valued the inclusive and diverse experience of learning about the law in this way. 89% of the learners valued being included in a learning forum where international industry experts were part of their learning journey. Importantly, all learners were full of praise for the inclusive approach to learning of the academic lead and teaching assistants, noting that the amount, nature and level of interaction made the learning interesting and educative because it was interactive and inclusive. While it is clearly possible to engage in an interactive and positive way in traditional face-to-face teaching, the point of difference with online legal education is as discussed above – the breadth of diversity, together with the ability to transcend the bounds of geographic, cultural and political boundaries, renders this approach to be far more inclusive than more traditional methods of education³².

CHALLENGES FOR EDUCATIONAL INSTITUTIONS

Despite the benefits of online legal education, using a MOOC, as discussed in this article, there are challenges and it would be remiss of the authors not to point out what these might be.

Firstly, the infrastructure needed to deliver a MOOC, or indeed, any online learning, in itself may be problematic. Internet access is essential. With regard to the IFL MOOC, great care was taken to make the videos short (mostly 3 to 6 minutes), so that learners would not have difficulty downloading via dial-up modem. As the literature, discussed previously, has noted – there are still constraints and impediments to access to internet and computer facilities in many parts of the world. Access to new technology in education requires good computer skills, which are still in their infancy in most developing countries. For learners in these countries, online education of any kind, whether legal or not, will remain beyond their reach.

Secondly, the cost of production and time in terms of both people and financial resources in creating a MOOC and associated learning materials is high and possibly prohibitive. It should be noted that the IFL MOOC was funded through a teaching and learning grant.

³¹ A Germain-Rutherford and B Kerr, "An inclusive approach to online learning environments: Models and Resources" (2008) 9(2) *Turkish Online Journal of Distance Education* 75.

³² M Kirby, 'Online Legal Education in Australia: The New CQU Law Degree' (2011) 34 *Australian Bar Review* 237 at 246.

Thirdly, moving into the learning phase, the learners' prior knowledge can be incredibly varied and in the case of the IFL MOOC, the learning ranged from high school students to franchise partners of law firms! While this did not seem to pose an insurmountable problem, it did confirm that the decision to assume no knowledge and to start by addressing basic concepts of contract and franchise law, before proceeding to more complex law, was valid and wise! Initially more experienced practitioner participants may have felt the course would be too easy but the decision to open all 6 modules in their entirety from week 1, enabled learners with a more advanced starting point to move ahead at a quicker pace, in accordance with their preference and ability.

Fourthly, while the lack of familiarity among students with online learning was initially a challenge for some learners, these queries were easily addressed and learners quickly learned how to navigate the predictable set of steps through each module.

Fifthly, many journal articles are not open source. This is a particular problem in law, as compared with science, where journals tend more often to be 'open access'. For the IFL MOOC, both UNSW librarians and the academic lead wasted considerable time attempting to negotiate open source access to particular journal articles but the cost was prohibitive. To enable them to quote a price for access the publishers wanted to know how many people would access the article but this was impossible to predict ahead of time. This problem has also been noted by Ferguson et al, as well as by Godwin Jones.³³

Sixthly, as observed in some of the literature about the use of MOOCs, the majority of MOOC content is in English and that could limit access for learners from countries where English is not widely spoken or understood, as a lower percentage of the population will have experienced the English language to the level needed to take an online law course. Students in developing countries have been identified as mainly using their local language and only a very small proportion of the population is' competent in an international language.³⁴ This raises questions about the viability of translations of and multilingual offerings of MOOCs – against this are issues relating to logistics, practicality and of course, cost.³⁵

³³ R Ferguson, M Sharples and R Beale, MOOCs 2030: a future for massive open online learning, in C Bonk et al (eds) MOOCs and Open Education around the World. Abingdon, Routledge, pp 315-326; R Godwin-Jones, Global Reach and Local Practice: The Promise of MOOCs (2014) Language, Learning and Technology 18(3), 5-15 at 14.

³⁴ R Samir Adham and K Oster Lundqvist, "MOOCs as a Method of Distance Education in the Arab World – A Review Paper" (2015) 18(1) European Journal of Open, Distance and e-Learning at 129.

³⁵ T Liyanagunawardena, S Williams and A Adams (2013) "The impact and reach of MOOCs: a developing countries' perspective" *eLearning Papers* (33). ISSN 1887-1542 Available at <http://centaur.reading.ac.uk/32452/> at 4.

Finally, transforming the MOOC into a revenue generating tool, 'for credit' educational offerings, remains a hurdle. One option is for the entire IFL MOOC to be converted to an internal UNSW 'General Education' course. This is offered to students who are enrolled outside the Business School and whose degree course permits or requires the inclusion of General Education topics beyond the discipline. Sadly, this option would dramatically reduce the future reach of the course. Another option is to embark on an extensive sub-titling and translating exercise, translating all spoken and written material into dominant languages such as Arabic, Mandarin and Spanish. This would, however, as noted above, still not open the course to the world.

CONCLUSION

Technology is revolutionizing education across all levels. Technological advancement is also challenging the conservative and more traditional approaches to teaching of law. While many universities, including UNSW, have embraced the embedding of technology and online learning tools into curriculum design and development, largely driven too to meet the need of globally-focused industry and employment markets for their graduates, universities ultimately need to decide how to use MOOCs as a teaching "best practice" tool.

For example, while it is clear that the application of technology to the future of legal education and indeed, to the profession as a whole, is inevitable, and while it is clear that MOOCs have the capacity to do more than just educate (as discussed in this paper, they breakdown learning barriers across a range of levels and address economic, geographic, cultural, political and gender issues in an unprecedented manner, when compared with other approaches to learning, including other online learning tools), the challenge is whether they are best used in credentialing environments for undergraduate or postgraduate courses, whether they should be integrated within a course, or whether they should be used to count for partial or total course credit?

Employers, too will increasingly read that applicants have completed specific MOOCs. What weight is to be given to satisfactory completion of MOOCs such as IFL, versus an equivalent face-to-face course, for example?

Importantly, when pondering the future of legal education, will it be possible for students to graduate from an entirely online university with a Bachelor of Laws or Juris Doctor, made up from micro-credentialing gained through MOOCs offerings of Priestley Eleven courses across from a range of universities?

Although, as discussed above, there are challenges to the use of MOOCs in the study of law (or indeed, of any discipline), it is future generation of learners, including of law, will be more exposed to online legal education. As education across the board becomes both increasingly technology-driven and globalised, a “marriage” between the global and technology aspects of MOOCs, as well as legal education, will no doubt form some kind of alliance, and to this end, perhaps International Franchise Law, the MOOC, has been a pioneer of change with regard to legal education.

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References:

H Boal and L Stallivieri, "The Influence of Massive Online Open Courses on the Internationalization Process of Higher Education" (2015) 2(2-3) <i>Digital Universities International Best Practices and Applications</i> 21.
M Burns, "Toward growing Indigenous culturally competent legal professionals in Australia" (2013) 12(1), <i>The International Education Journal: Comparative Perspectives</i> 226.
D Chun, "Developing intercultural communicative competence through online exchanges" (2011) 28(2) <i>CALICO Journal</i> 392.
J Daniel, "Making Sense of MOOCs: Musings in a Maze of Myth, Paradox and Possibility" (2012) 3 <i>Journal of Interactive Media in Education</i> 18.
R Ferguson, M Sharples and R Beale, "MOOCs 2030: a future for massive open online learning", in C Bonk et al, <i>MOOCs and Open Education around the World</i> (Routledge, Abingdon, 2015), 315-326.
A Germain-Rutherford and B Kerr, "An inclusive approach to online learning environments: Models and Resources" (2008) 9(2) <i>Turkish Online Journal of Distance Education</i> 64.
R Godwin-Jones, "Global Reach and Local Practice: The Promise of MOOCs" (2014) 18(3) <i>Language, Learning and Technology</i> 5 - 15
D Gurnick and A Meiklejohn, 'Teaching Franchise Law in Law Schools: A Role for Experienced Franchise Lawyers' <i>Franchise Law Journal</i> (2017) 36(3), 505 at 512.
M Kirby, "Online legal education in Australia: The new CQU law degree" (2011) 34 <i>Australian Bar Review</i> 237.
F Miller and J Katz, <i>Inclusion Breakthrough: Unleashing the Real Power of Diversity</i> (Berrett-Koehler Publishers, 2002)
T Liyanagunawardena., S Williams and A Adams (2013) "The impact and reach of MOOCs: a developing countries' perspective" <i>eLearning Papers</i> (33). ISSN 1887-1542 Available at http://centaur.reading.ac.uk/32452
R Samir Adham and K Oster Lundqvist, "MOOCs as a Method of Distance Education in the Arab World – A Review Paper" (2015) 18(1) <i>European Journal of Open, Distance and e-Learning</i> 123.
P Schrag, "MOOCs and Legal Education: Valuable Innovation or Looming Disaster?" (2014) 59 <i>Villanova Law Review</i> 83 - 134.
M Sharples et al, "Mobile and Accessible Learning for MOOCs" (2015) 1(4) <i>Journal of Interactive Media in Education</i> 1.
A Tubaishat, A Bhatti and E El-Qawasmeh, "ICT Experiences in Two Different Middle Eastern Universities" (2006) 3 <i>Issues in Informing Science and Information Technology</i> 667.
L Yuan and S Powell, "MOOCs and Open Education: Implications for Higher Education" (2013) <i>JISC CETIS</i> 1.