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Defying the 'Magic Circle': Unethical Acts in Virtual Worlds

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Defying the 'Magic Circle': Unethical Acts in Virtual Worlds

Abstract

Overview: This article investigates the complex and controversial exclusion of real world law from virtual worlds. By including examples of several documented unethical acts that have occurred in virtual worlds, this article suggests that real world law should be carried into virtual spaces in order to protect users. Some forms of protection discussed within this essay include the transfer of property rights and consequences of legal prosecution in order to deter unethical behaviors. Finally, this article includes benefits of adopting these strategies, while also acknowledging the potential negatives.

Imagine a world where you can be perfect; a world where you can be whoever you want, whenever you want. Imagine a space you can retreat to in order to escape the pressures of the real world, achieve a new identity, and interact with a whole new population. Virtual worlds provide all of these ideal opportunities to their users. In fact, over 300 million users had registered accounts for a virtual world, according to data reported in 2008 (Waterburn 2009, 2.) As we move even further into a technological era, one can assume that this number has most likely increased as well.

With such a large user base, it would be ideal for virtual worlds to be safe, enjoyable places where users can enjoy and be immersed in their experience. However, users can have their experience spoiled by others. Much like the real world, virtual worlds serve as a place where many unethical practices occur. Some of the most well-known unethical occurrences demonstrated in virtual worlds are basic harassment, extramarital affairs, sexual harassment, and virtual theft. Although many doubt the seriousness of these practices because they are not committed in the real world, their impact is felt, and has a serious influence on other users. However, the topic of unethical events occurring within virtual worlds has generated some debate in terms of liability and punishment. Some believe that if these unethical practices are not occurring in the real world, then they are not a real world problem. Others argue that the users that witness and are sometimes victims of these practices are real people, and therefore the acts should receive real consequences.

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With such a large user base, it would be ideal for virtual worlds to be safe, enjoyable places where users can enjoy and be immersed in their experience. However, users can have their experience spoiled by others. Much like the real world, virtual worlds serve as a place where many unethical practices occur. Some of the most well-known unethical occurrences demonstrated in virtual worlds are basic harassment, extramarital affairs, sexual harassment, and virtual theft. Although many doubt the seriousness of these practices because they are not committed in the real world, their impact is felt, and has a serious influence on other users. However, the topic of unethical events occurring within virtual worlds has generated some debate in terms of liability and punishment. Some believe that if these unethical practices are not occurring in the real world, then they are not a real world problem. Others argue that the users that witness and are sometimes victims of these practices are real people, and therefore the acts should receive real consequences.

The notion that real-world law is excluded from virtual worlds is represented by the "Magic Circle" metaphor (Fairfield 2011, 3). The "Magic Circle" is a boundary that separates events taking place within virtual worlds and the real world, with a specific focus on legal concepts (Fairfield 2011, 2). After becoming familiar with virtual worlds, one may reconsider this theory, questioning the existence of any boundary. This type of reconsideration is to what this paper is directed. By grasping a thorough understanding of what virtual worlds really are and how they operate, and by exploring several documented unethical behaviors that have took place within virtual worlds, the "Magic Circle" can be deemed as non-existent. Overall, unethical practices that occur within virtual worlds have real life effects, and therefore should be susceptible to real life punishment.

Virtual Worlds and Cyber law

First, it is important to understand the technical definition of a virtual world as well. A virtual world is "[a] synchronous, persistent network of people represented as avatars, facilitated by networked computers" (Bell 2008, 2). The system of networked computers that this definition mentions is the Internet. The Internet serves as a virtual portal that allows users from all over the world to crossover into cyber life, instantly transforming the everyday person into his or her own customized and unique avatar. Due to the Internet's vitality and relation to virtual worlds, it is important to learn more about cyber law while attempting to reach decisions about the ethics of virtual worlds. Recognizing the most basic of cyber law explanations can provide clarification in addressing ethics of virtual worlds.

Consider the common law theories that state that all men are born with "natural rights" (Spinello 2000, 13). Often neglected in various cases of cyber law, the natural rights theory provides a legitimate and solid foundation for acceptable online behaviors. Contemporary natural law philosopher John Finnis claims that there are seven crucial factors that are necessary for human beings to reach their full potential. These seven factors are: life and health, knowledge, play, aesthetic experience, sociability (or friendship), religion, and practical reasonableness (Spinello 2000, 13). It is reasonable to suggest that natural rights do hold value in cyberspace, and respecting these rights can benefit all users by helping to maintain positive cyberethics. Furthermore, if virtual worlds are merely a component of the Internet, it is reasonable to suggest that they must be respected within these spaces as well.

Reflect on these unethical practices along with natural rights. A victim of an unethical behavior within virtual worlds could have their natural rights violated in many instances. For example, "gold farmers" are on the receiving end of basic harassment in virtual worlds. Gold farming is the practice of individuals selling virtual gold to other players in a virtual game (e.g., World of Warcraft). The virtual gold allows players to buy new weapons or armor, and the gold farmer provides the gold for an actual fee consisting of real money (Heeks 2010, 1). One may question the potential an occupation like this has to earn money or what kind of an industry this is at all. The answer is a lucrative one; in fact, the annual trade of virtual gold is estimated around at least $1 billion dollars per year (Heeks 2010, 2). Additionally, gold farming employs over 400,000 employees, with Asia and particularly China being leaders of the industry (Heeks 2010, 2).

Gold farmers constantly market their business in virtual worlds, approaching other gamers and offering their services. The practice of gold farming is also viewed by many players as cheating, because it allows users to advance in the game without completing the necessary tasks themselves. Due to constant advertisement and moral questionability, gold farmers are often viewed by other users and players as pests, and annoying to deal with in the virtual world. Since many users are aware of the Asian dominance in the gold farming industry, gold farmers face racial stereotyping and are automatically labeled as a person of Asian descent by other users. As a result of their reputation to annoy other users and the racial stereotypes, gold farmers receive myriad versions of racial verbal abuse (Heeks 2001, 9). For example, one gold farmer shared this statement while discussing his experience with players from the United States in virtual worlds: 'they treat me bad … they keep calling me farmer, China dog and such. I do not have any problems with other players except American players, they nonstop racist me' (Heeks 2001, 9).

In this particular example, the gold farmer is having his natural rights infracted upon by American players. Their ruthless behavior has an effect on the gold farmer and violates his chances of sociability, aesthetic experience, and overall practicable reasonableness. In other words, the racist behaviors of the white users interfered with the gold farmer's ability to perform tasks within the game and prevented him from maximizing his virtual experience. Overall, it is evident that the most common theory of natural rights in online environments can provide a useful outline of acceptable behaviors within virtual worlds, and aid in establishing a form of proper etiquette.

Cheating with Virtual Worlds

An infamous and unethical practice that is constantly occurring within virtual worlds is the involvement of users in extramarital affairs through their avatar. "Cheating" on a spouse definitely qualifies as an unethical act, as it is typically an event that triggers many divorce cases. However, many are not aware of how it may occur in virtual worlds. One known case is the story of "Gem" and "Zupy," two avatars that were married within the virtual world. However, they were also married in real life, with other actual persons (Jones 2010, 1). Some may doubt the seriousness of this involvement, simply because one only interacts with the other person within a virtual world. However, these cyber-relationships can be devastating to real life marriages. For example, a woman named Cici (in Second Life) spends many hours in the virtual world Second Life as a result of physical limitations she faces in real life (Loke 2009, 150). Her husband also spends a great deal of time in Second Life, as it is a hobby of his. As a result of his participation in Second Life, Cici began to formulate serious suspicions about her husband's interaction with other avatars. Eventually, she began to accuse her husband of cheating on her in Second Life, and complains then he takes other women out in Second Life, while ignoring her avatar. (Loke 2009, 150). This situation is even more peculiar because the couple literally uses Second Life in the same room. Despite the fact that the real life Cici can physically interact with her husband in the real world, she is envious and hurt that her husband goes out on a virtual dates (Loke 2009, 150). Although one may be unaware of pre-existing issues between Cici and her husband, it is apparent that virtual worlds can enhance cyber-relationships at a whole other level. Furthermore, her husband's involvement with other avatars has led to real-world marital discord.

Extramarital affairs taking place within virtual worlds have even been serious enough to cause real life divorce. A British woman named Amy Taylor is an avid user of Second Life, and her avatar is a club DJ named Laura Skye. Her real-world husband, David Pollard, also used Second Life, and had an avatar named Dave Barmy (Morris 2008, 2). The couple originally met in a chat room, and eventually moved in with each other. Along with this, their avatars became partners in Second Life (Morris 2008, 3). Their virtual relationship came to a halt when Taylor witnessed Dave Barmy participating in sexual activities with another avatar on Pollard's computer screen. Despite the virtual break-up of their avatars, Taylor remained with Pollard in real life (Morris 2008, 3). As a result of Pollard's online affair, Taylor created a fake avatar in which she used to try and seduce Dave Barmy. However, Pollard did not bite the bait, and Taylor believed that he had changed his ways. As a result, the couple reconciled their Second Life relationship and had a virtual wedding, and even got married in the real world (Morris 2008, 3). Eventually, Taylor

found Pollard returning to his own ways, as she caught him yet again chatting extensively with other female avatars. Taylor was so offended by these events that she filed for a real divorce from Pollard (Morris 2008, 3). Pollard defended his actions by stating that, "We weren't even having cyber-sex or anything like that we were just chatting and hanging out together. It was nothing really major. I don't think I was really doing anything wrong."

Although the untrustworthy occurrences that ruined the marriage took place in a virtual world, it is easy to see the parallels the events had with real life affairs. Furthermore, it is unmistakable that relationships that come about from interactions in virtual worlds can become extremely in-depth and serious. Taylor admitted that the entire chain of events was a bit strange, but that "People find love in lots of different ways" (Morris 2008, 4). Pollard found love in Second Life and it demolished his real life marriage.

Virtual Rape

Other acts that take place within virtual worlds can be far more serious than cyber relationships. One of these acts is sexual abuse. In the terms and conditions that users must accept before joining the aforementioned Second Life, there is written policy that prohibits users from "stalking, abusing, or harassing other users" (Smith and Grimston 2007, 1). These cases of sex abuse are labeled as "online rape" (Smith and Grimston 2007, 1). Online rapes have left victims with extreme emotional damage, even though it was only their avatar who was violated (Smith and Grimston 2007, 1).

There is one particular case of online rape that opened eyes to virtual crimes. This is the infamous series of Bungle rapes, which were committed through a virtual chat space called LambdaMOO, an early text-based virtual space (Dibbell 1999, 1.) The Bungle rapes were carried out through what are known as "voodoo dolls" (Dibbell 1991, 4). In terms of virtual worlds, a voodoo doll is a subprogram that is utilized to assign actions to other characters within the virtual world that their user did not actually write themselves (Dibbell 1991, 4). Bungle utilized this voodoo doll tactic in one particular instance on another user known as "Moondreamer" (Dibbell 1991, 4). In this situation, Bungle forced Moondreamer to describe how she violated herself with a steak knife, receiving pleasure (Dibbell 1991, 4). In a very close sense, this is similar to a real-world rape; the victim is being violated against their consent. In contrast, there are arguments claiming that virtual rape is not a legitimate parallel of real-world rape. Richard MacKinnon, a

political scientist in the Advanced Communication Technologies Laboratory at the University of Texas at Austin, acknowledges that virtual rape occurrences have become so popular that it is necessary to study it in comparison to real-world rape (MacKinnon 2011, 2). However, MacKinnon reasons that advocates of feminist theory demand that many forms of sexual encroachment qualify as rape, even if they are merely forms of harassment (MacKinnon 2011, 8). In addition, a vital component of his argument is that by traditional definition, the act of rape has to include actions of unwanted or forced physical contact (MacKinnon 2011, 7).

In contrast to MacKinnon's argument, it is obvious that a cybercrime cannot harm a victim physical because it is carried out through a virtual outlet. In order to realize the parallels between online rape and real rape, it is important to know the effects of a real life rape. Let's begin by recognizing the immediate effects rape has on victims. Some of these effects include shock, confusion, numbness, fear, anger, and shame (ChildPsych 2011, 1). In the Bungle cases, after his grizzly, yet strictly verbal attack on Moondreamer, the person behind the avatar was left "trapped" inside of the chat space, leaving her paralyzed emotionally (Dibbell 1999, 3). There is an undeniable connection to the effects of real life rape here, as the victim was put into a state of shock, numbness, and confusion. Another documented attack by Bungle was committed on a user referred to as "exu." Exu received the same verbal rape as Moondreamer, inevitably endured the same state of aftershock, and took her emotion a step further by expressing her thoughts and feelings about the attacks on a popular public forum in LambdaMOO (Dibbell 1999, 4). With tears running down her face, exu's real life being produced a livid and curse-filled tirade account of the events, depicting her own feelings toward Bungle (Dibbell 1999, 4). This act suggests the characteristic anger of immediate real life effects of rape listed above. Eventually, exu voiced her opinions on the incident again, except this time it was within a calm call for action. Exu posted: "I am requesting that Mr. Bungle be toaded (expelled) for raping Moondreamer and I. I have never done this before, and have thought about it for days. He hurt us both" (Dibbell 1999, 6). Exu's post received an immense amount of feedback, generating discussion and approval from witnesses and users who had heard about the rapes (Dibbell 1999, 6). Due to the uproar resulting from the incident, Bungle was removed from LambdaMOO (Dibbell 1999, 7).

Removing Bungle from the virtual space proved itself to be a temporary fix, as real-world Bungle returned under a different alias, Dr. Jest (Dibbell 1999, 8). Bungle's reincarnation leads to a larger problem and point of information; simply deleting a user's account and abolishing his

current reign of terror is not enough. Moreover, advances in technology suggest greater repercussions may be necessary. The Bungle incidents occurred in the 1970's, when virtual worlds were strictly text based. We are now in an era that allows users to completely customize their avatar's appearance, and interact through touching other avatars, and move their own virtual bodies. Despite dramatic improvements technologically, very little has been done to improve the protection of users against these virtual attacks. In fact, many law officials remain on the fence about virtual crime. For example, police in Britain, Belgium, and Holland investigated a sex abuse crime in 2010 (Smith and Grimston 2010, 1). The crime took place in the very well-known Second Life. In the terms and conditions that must be accepted before joining Second Life, there is a prohibition on "stalking, abusing or harassing other users" (Smith and Grimston 2010, 1). The police admit that the crime may apply to real-world law because the site's terms and agreements were violated (Smith and Grimston 2010, 1). However, there still seemed to be an absence of confidence and action. Is it possible that those in charge of holding criminals accountable and prosecuting are overthinking the issues at hand, or maybe not considering them at all? A law agreement is law, whether it is signed with a pen, or confirmed through the click of a mouse. By accepting the terms of a virtual world, you are agreeing that you will follow these codes and engage in appropriate behaviors. Thus, any violation of this agreement should be recognized as what it really is: breaking a law.

Virtual Theft

Virtual items that exist strictly within the virtual world do in fact have substantial real world value. The aforementioned gold farming industry demonstrates this virtual equity. In fact, gold selling company, Gold4Power, sells 5,000 pieces of virtual gold for $69.99 (Nelson 2008, 7). As an essential element to success in the extremely popular World of Warcraft, many individuals will purchase this gold. Unfortunately, they are sometimes wrongfully stripped of this gold as a result of theft. Many overlook or question the legitimacy of virtual theft because they believe that stealing something that does not tangibly exist is irrelevant. However, since the virtual items cost real money, one may argue that it is very relevant.

One way theft occurs is through hacking (Nelson 2008, 18). In today's computer dominated society, hacking is a well-known practice, usually with a negative connotation. In virtual worlds,

hacking occurs when an individual gains access to another user's account without permission, and therefore has access to all of their virtual funds and equipment (Nelson 2008, 18).

Also, virtual theft can take place within the game itself (Nelson 2008, 19). In-game theft takes place through normal game play, and is not a violation of rules, or unnecessarily unwanted by the game designer since it is able to happen (Nelson 2008, 19). For example, this type of theft can be carried out in Ultima Online, a game where players can pickpocket or steal from users who have been killed (Nelson 2008, 19).

Also, virtual theft can occur through "software bug exploits," or unintended game features (Nelson 2008, 20). One example of these exploits was found in Second Life and allowed users to duplicate products found within the game (Nelson 2008, 20). This infringed on Second Life's granting of copyrights to its users for creations they make within the game (Nelson 2008, 20).

Finally, there are rare cases of virtual theft that do occur. For example, a man named Qiu Chengwei won a very desirable sword in the virtual world Legend of Mir 3 (Nolan 2010, 1). In an act of generosity, he let his friend borrow the sword to use in the virtual world. Chengwei's friend stole the sword, and ended up selling it online (Nolan 2010, 1.) Despite the fact that there was not a tangible item stolen, the item at hand still was worth money. The sword was sold for $871 in real money (Nolan 2011, 1).

One of the main solutions that could deter virtual theft is granting user's property rights to what they own within the virtual world (Nelson 2008, 3). However, this is easier said than done. One theory that is generated by these discussions is the "labor theory justification" (Nelson 2008, 9). The whole principle behind the labor theory justification is fairness (Nelson 2008, 9). Since players put in time, money, and skill to make objects within the virtual world, they should have rights to what they create (Nelson 2008, 9). Labor theorists who make this argument also rely on the theory of property acquisition, as stated by philosopher John Locke (Nelson 2008, 10). Locke states that, '[w]hatsoever [man] removes out of the State that Nature hath provided, and left it in, he hath mixed his Labor with it, and joined to it something that is his own, and thereby makes it his Property' (Nelson 2008, 10). In context of virtual worlds this theory is insignificant because users are not removing anything from the state of nature (Nelson 2008, 10). The developer of the world has already created the resources, and has passed them onto the users (Nelson 2008, 10).

Despite the fact that Locke's theory does not apply to users in this scenario, it does apply to game developers. Therefore, if users are purchasing resources or producing them within the virtual spaces that the developers have created, then shouldn't the rights be passed on? (Nelson 2008, 10). Joshua Fairfield, who disagrees with the "Magic Circle" concept favors the transfer of property rights (Lastowka 2010, 135). One large factor in Fairfield's argument is the fact that domain names follow rules of private ownership (Lastowka 2010, 135). For example, walmart.com is owned exclusively by Wal-Mart. As a result of this ownership, there are legal consequences for anyone who wrongfully affiliates themselves with the website or infringes upon this ownership. Fairfield claims that "both domain names and virtual property use computer code to mimic real world properties" ((Lastowka 2010, 135). Since domain names and virtual property are composed in the same manner, they should be handled in the same fashion by attaching rights to the virtual property (Lastowka 2010, 135).

If users received property rights, it would allow them to have rights to protect themselves against theft. Consider the means in which virtual theft is carried out. If a user with property rights has their account hacked and their items stolen as a result, then the thief can face charges if they are caught. In-game theft is a risk the user is willing to take, and they will need to take precautions before participating in games in which it occurs. This would also address the situation in which the borrowed virtual sword ended up getting stolen. When Chengwei let his friend borrow the sword, unless he could prove he did not give consent for his friend to sell the object, then the friend would not be liable. Finally, software bug exploits will have to be reduced by the game developers. If the exploits result in personal loss of users, then it would be fitting for the game developers to reimburse a user for what they lost because of the game flaw.

No Existence, No Punishment

There are a couple main arguments as to why the unethical acts of virtual worlds should not be punishable. One may claim that the victim is in part responsible for the crime because they put themselves in the situation. This should lead back to Finnis' list of natural rights. If a user is violating the natural rights of another user, then they are at fault, and only they are at fault. Those individuals who participate in virtual worlds or wish to become participants should not then be burdened by other individuals who abuse these spaces.

Many support the previously mentioned Magic Circle theory that separates real law from virtual worlds' legal position. "We will recognize that these are separate places, with a separate community, separate laws, and separate rights." (Woolford 2009, 26.) However, virtual worlds are not as separate as this particular quote claims they are. After all, it is real people who build, maintain, and inhabit these spaces. It is real emotion that results from these "separate" communities' unethical behaviors, and real life effects that occur. Real money is spent on virtual assets, and real behaviors are transferred into these worlds. In fact, it appears as if real-world law is one of the only necessities that are not present in virtual worlds.

Conclusion

Overall, it is evident that virtual worlds host some rather serious unethical actions and behaviors. Despite the fact that they are separate from the real world, the unethical acts that occur within them have real effects, and therefore should lead to real punishment. However, only some of the questions are answered here. For example, there still needs to be further research to investigate unethical virtual behaviors from a legal perspective. As unethical virtual behaviors are reviewed with this perspective of law in mind, then we can develop solutions to these unethical behaviors. If this does not occur, there will continue to be victims. There will be more property, self-esteem, and marriages lost at the hands of those who violate the privilege of being allowed to utilize these virtual spaces. It is up to the developers of these spaces, and real law officials, to collaborate on a compromise so that millions of users and real people may be protected. Virtual worlds provide endless possibilities that individuals of all ages can utilize for their own benefit. Thus, we have to ensure a safe and enjoyable environment to the users in order for them to experience their maximum potential.

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