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The Process Model of Curriculum in the Planning and Teaching of Legal Units of Study

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Abstract: *As one of the more recently developed theoretical models of curriculum, the process model, has had a significant impact on curriculum development. It has changed the way that curriculum development has historically been thought of and planned and has provided a new direction for curriculum planning in the twenty first century. This article examines this model of curriculum in the context of developing and revising law units of study in tertiary institutions.*

Key Words: *Curriculum theory, process model, law, legal education, professionalism*

Introduction and contextualisation

Formal curriculum theory has been around for less than one hundred years. Its foundations rest in providing a link from grounded theory into what happens in a teaching institution to what happens in an individual classroom. It exists to provide credibility, integrity, professionalism and rigour to what happens in practice. Although this has been a neglected area of examination, curriculum is particularly important in the teaching of law units in tertiary institutions as the students that are produced by these institutions will go onto become members of professional societies (Newlyn, 2015; Newlyn, 2016). Indeed it is these same professional societies who set the criteria upon which these students will be judged as eligible members of that society, so an established curriculum needs to be clear and transparent.

What is understood by the term ‘curriculum’?

Although the term 'curriculum' has been in existence for a considerable period of time, its meaning is not always clear (Smith & Lovat, 1993). This is because of the different contexts in which the term can be and is used (Lunenburg, 2011). The term is highly contextual and connotes different political, social and ideological meanings dependant upon the user(s) groups of the term (Ewing, 2013). As it is a pivotal precept of this article it is desirable to take a juncture to discuss the term and put it in the context of how it is used within this article.

As a starting point and an illustration of the difficulties associated with this term take the following definitions by leading theorist in the field.

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Johnson candidly states that curriculum is simply "planned learning experiences" (Johnson, 1967: 129).

Albeit still very broadly, bit with a little more detail, Grumet states that "curriculum is the collective story we tell our children about our past, our present and our future" (Grumet, 1981: 115).

Tanner and Tanner offer a more complex definition when they posture that curriculum is "The planned and guided learning experiences and intended outcomes, formulated through the systematic reconstruction of knowledge and experience, under the auspices of the school, for the learner's continuous and wilful growth in person-social competence" (Tanner & Tanner, 1975: 13).

Smith, Stanley and Shores offer the following definition of curriculum: "A sequence of potential experiences is set up in the school for the purpose of disciplining children and youth in group ways of thinking and acting. This set of experiences is referred to as the curriculum" (Smith, Stanley & Shores, 1957: 3).

Finally Connelly and Clandinin (1988) state that: "Curriculum is often taken to mean a course of study. When we set our imaginations free from the narrow notion that a course of study is a series of textbooks or specific outline of topics to be covered and objectives to be attained, broader more meaningful notions emerge. A curriculum can become one's life course of action. It can mean the paths we have followed and the paths we intend to follow. In this broad sense, curriculum can be viewed as a person's life experience" (Connelly & Clandinin, 1988: 34).

Given the broad and differing natures of the above definitions it can be seen that, although initially perhaps seeming some what banal, the term curriculum is rather complex. It is not the intention of this article to thoroughly and completely explore the various dialectical or polemical definitions of the term curriculum or to examine why these different definitions have come about. However it is necessary in the context of this article to acknowledge the complexities associated with defining the term due to issues such as contextualisation and to provide a clear statement of how the term is used in this article.

In this article it is submitted that curriculum is defined as a programme of planning the learning activities of students. That is, the word is being used in an expansive sense to encompass everything from the thinking associated with planning what will happen, to consultation with relevant stakeholders, to planning individual lessons based on objectives, to the identification of the resources needed to deliver the relevant content and evaluating what has occurred in the classroom. A model of curriculum is therefore the stage by stage designing of the curriculum.

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Process model of curriculum

The process model of curriculum was developed by Lawrence Stenhouse in 1978 (Stenhouse, 1978). The process model is significantly different to any of the other models, such as the dynamic, cyclical or rational models, which were already in existence before this time.

It has been suggested that the process model developed as a reaction to a perception of the curriculum designs by people who work continually with curriculum contents rather than those who simply deal with it in isolation and thus have little understanding of the complexities and intricacies of delivering information to real people in real situations (Brady, 1992:). Skilbeck states that this model developed as a reaction to the prescriptive nature of the other models, particularly the rational/objective models, and this model therefore belongs to a group he calls ‘alternative models’ (Skilbeck, 1984).

Principally Stenhouse suggested this model because he did not believe that any of the other models, which tended to focus on the need to formulate and achieve objectives, took into account the realities of the classroom environment. Those models tended not to recognise that the classroom or any learning environment is an artificial and unique environment which exists in a rarefied atmosphere and has special dynamics of which only educators who are involved in day to day classroom activities are aware.

Stenhouse's (1978) model cannot be criticised as being protracted. The components of Stenhouse's model are:

1. Content
2. Methods
3. Evaluation

Step one of the model developed by Stenhouse involves the selection of content. This is thought of more specifically than objectives. So for example in the teaching of a contract law unit, it would contain specific content as prescribed by external accreditation bodies and include aspects such as the theoretical underpinnings of the law of contract, the postal acceptance rule and the elements required to form a contract. Whereas if this were considered as objectives it may include something much more general such as 'applying critical, reflective and creative skills to make informed decisions in applied contexts.' The idea is that content is much more specific than objectives.

As the second step of the model, methods encompasses an understanding of teaching methodology. That is. how is the content, prescribed in step one, to be taught to the students. Take for example the teaching of a criminal law unit, where content may involve an understanding of the criminal justice process. Methods for this could involve attending a criminal

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trial to observe the processes involved or the use of a guest speaker on the topic. Another example in the context of teaching contract law, could be in the teaching of exclusion clauses. Different methods could involve being presented with examples of different exclusions clauses from existing real contracts by the teacher. Or, as an alternative, asking the student to draft their own version of an exclusion clause based on the theoretical knowledge they have gained by reading a textbook.

The final step of the model involves evaluation. That is, evaluation of the content, from step one and the methods from step two. The content could be examined via a number of effective formative and summative mechanisms such as oral presentation, essay, reports of court visits and formal examination at the conclusion of the course. The methods could be evaluation by the undertaking of anonymous student surveys as to the value of the teaching methodologies used throughout the course.

As a fundamental basis, the process model has no statement of objectives. It is centred on the proposition that education is concerned with the development of intellectual or cognitive developments and thus what is crucial to this process is not the learning of a vast body of knowledge but rather the processes of development that are prompted (i.e. critical thought or perhaps in the law environment essential skills) (Kelly, 1989).

The process model is based on the tenet:

> that to have been educated is to have been helped to develop certain intellectual capacities rather than to have acquired factual knowledge or to have had one's behaviour modified in certain ways (Kelly, 1989: 17).

Initially it might seem that the objectives seem to be encompassed by the content but this is something that Stenhouse has specifically rejected (Smith & Lovat, 1993). Stenhouse (1978) states that objectives are to play only a very general part in the development of the curriculum. Instead curricula:

> …can - and should - be constructed...by selecting suitable content to exemplify the structure, content and criteria of the forms of knowledge (Skilbeck, 1984: 221).

A palpable question that one could then ask is 'What then are these *forms of knowledge* if they are not objectives based'? Stenhouse states that a *form of knowledge* has "structure and it involves procedures, concepts and criteria" (Stenhouse, 1978: 85). Implicit in this is the fact that the process model approach must take into account aims and objectives, even if they are considered to be very broad in nature. It appears that *content* could be argued as just a different word for *objectives*. Or at the very least that the term terms overlap.

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Many, including Skilbeck (1984), are critical of this model and are confused on the issue of forms of knowledge/objectives. Skilbeck makes the point that Stenhouse's suggestion that objectives are to play only a minimal role in the process model is problematic. Objectives, even if they are broad, have to play a part, even if at least in the initial theorising of the curriculum to select broad topic areas. It is Skilbeck's contention that, due to the inevitable reliance on objectives, the process model suggested by Stenhouse is not very different from any of the various objective based models already in existence. Skilbeck states:

> …a careful reading of Stenhouse's discussion of curriculum planning and his description of the alternative, so-called 'process model' suggests that his own position is not so far from some kind of objectives-based analysis (Skilbeck, 1984: 224).

The process model has been widely criticised by traditional curriculum theorists (Brady, 1982; Skilbeck, 1984). Take for example the criticism of this approach levelled by Skilbeck who is quite concerned by the thought of individuals being free to choose what they learn and how they learn it. Skilbeck clearly values a more rigid curriculum where there are commonly set and held criteria upon which individuals can be educated and assessed. He states:

> The curriculum cannot be left to the whims of individual teachers, however charismatic and brilliant, or to the child's preferences (Skilbeck, 1984: 225).

Whilst Skilbeck's (1984) criticism might be for a stricter approach to the objects and purpose of a curriculum than proposed by Stenhouse, it is clear this model is very different to models of curriculum that already exist. Tyler was adamant that a curriculum must have a specifically identifiable set of objectives and stated clearly the problem with many educational programmes is that they "do not have clearly defined purposes" (Tyler, 1949: 3). It is likely that Tyler would be critical of Stenhouse's model for failing to provide these 'clearly defined purposes'.

Stenhouse seemed to recognise that the process model may not be very successful in situations where what is to be learnt is information and skills. He clearly acknowledges this when he states that:

> … (simple) skills are probably susceptible to treatment through (the use of the) objectives model (Stenhouse, 1978:85).

But Stenhouse contended that the process model would be most effective in those areas of the curriculum which have a focus on knowledge and understanding (Marsh, 1986). There is a fundamental difference between these concepts.

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It should be recognised there are potentially impediments in judging what has been learnt under the auspices of this model. Stenhouse acknowledges that evaluation, whilst still possible, will be very difficult (Stenhouse, 1978). Stenhouse claimed evaluation should not take into account pre-specified objectives (Stenhouse, 1978). One may then ask 'what is to be assessed or evaluated'? It is quite possible, depending on the content, that each person involved in a course of study will have learnt something different from the shared experience delivered via the curriculum. Although this will be difficult to assess. This is indeed Stenhouse's contention, he notes the difficulties associated with assessment using his model and highlights the need to use one of the more accepted models (that has a specific focus on objectives) if a formative assessment of actual skills or knowledge retained is paramount (Stenhouse, 1978).

Some of the things participants in the curriculum have learnt may have been what was initially intended, but what of the other things? Are these 'extras' a good thing? Is it possible to assess anything they have learnt if we originally did not have any objective criteria upon which to base this assessment? These are the types of questions that traditional curriculum writers have asked of this model. It is a feature of the process model that it is very difficult to provide answers to these types of questions. Therefore anyone who is considering the use of this model needs to be prepared for this type of criticism. This is not to suggest that the model is inherently flawed, rather it is to suggest that the work of any teacher or curriculum designer is always open to criticism.

It may only be possible to assess the effectiveness of the curriculum from the reactions of individuals to the material (content) they have engaged with. To gauge their confidence level in dealing with potential legal situations. But is this effective evaluation/assessment? Certainly if a formal normative or summative type of assessment is required it could be argued this model will be ineffective.

Implications

According to Kelly, the process model of curriculum planning:

> ...is predicated on the view that education is centrally concerned with certain processes of intellectual or cognitive development...not the bodies of knowledge that are assimilated nor...the behavioural objectives that are obtained or the behaviour changes that are brought about, but the processes of development are promoted (Kelly, 1989: 17).

Based on this philosophy, in terms of its applicability to the teaching of law units, this model has some potentially very exciting elements. The process model sees the student as an active participant in education. They have some input into and control over the process development.

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If, as law teachers, we do not seek to simply produce a graduate who memorises information and facts, but a graduate who can apply information to new situations and has the capacity to be a life long learner, then this model may be of considerable value (Stenhouse, 1978). It emphasises the development of experiential skills, rather than of specific content. Which in law can be a very valuable concept as the content itself will frequently and sometimes quite dramatically change. Indeed Preston and Symes indicated that in areas of study like engineering, medicine and law up to fifty per cent of knowledge gained is obsolete within five year of study (Preston & Symes, 1992). So understanding process, rather than having specific elements of knowledge becomes very valuable for the lawyers future. That is, whilst some knowledge is of course still important, specific pieces of knowledge will quickly become irrelevant, but an understanding of a process can be a skill which can help the lawyer throughout their entire future career.

The potential problem, of course, lies as discussed above, with the lack of emphasis on objectives and the difficulties of formal assessment. Law schools are usually required to be externally accountable to professional associations for the delivery of prescribed content and this model therefore proves somewhat problematic for this purpose. That is, it may not be immediately obvious that the required objectives have been set, and achieved. Rather more broad concepts of content can be examined, but this is certainly not the same as objectives. This could cause problems in terms of providing a transparent accountability by external accrediting authorities.

In terms of simplicity of design, the process model may be very effective in teaching law units. Many who teach law in the tertiary environment may have no formal experiences or qualifications in the field of education. The simple three step process model provided by Stenhouse, can provide a very straight forward platform to be followed by even an inexperienced educator.

Conclusion

An understanding of curriculum and of its developmental processes has always been central to the professional work of teachers (Newlyn, 2016). Choosing any model of curriculum development for the teaching of law units in tertiary institutions is important. A model of curriculum provides a reference point for external examination of the activities that are undertaken by the educator. A failure to have knowledge of and to properly use a model of curriculum sends a clear message to an external observer that what is happening in the classroom is random and haphazard. It is only via the use of a model of curriculum that confidence can be gained that the activities are well thought out, professional and rigorous in nature.

Although not the most common in the field, the process model of curriculum development is an enlightened model (Brady, 1995). It is not at all similar to the traditional models of curriculum which existed before its development. Its focus away from objectives sets it apart from those other models. In the teaching of law units in tertiary institutions it may have some benefits which

should be considered. This is especially predicated on the notion that it is not desirable to produce a law graduate who is a master of some memorised facts about the law. Rather it is desirable to produce a law graduate who is equipped to progress in their professional field throughout their entire future career, rather than simply positioned to gain entry to the profession.

If what is desired is to produce a graduate which focuses on the development of the student, rather than simply producing a student with specific commercial knowledge, the process model is the only suitable model for curriculum development in the legal field of study (Kelly, 1989).

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