

REFRESHED IN THE TROPICS: DEVELOPING CURRICULUM USING A THEMATIC LENS

*KATE GALLOWAY**

Distinctiveness in higher education drives the development of university branding as well as informing curriculum development. The School of Law at James Cook University (JCU) is presently involved in a ‘curriculum refresh’, based on developing its LLB in terms of JCU’s own claim to distinctiveness as the University for the Tropics. The challenge of developing a ‘tropical’ identity for a professionally-accredited degree has so far involved a two-stage process. First, the project sought to establish the particular claims to distinctiveness of other LLB programs in Australia through a review of selected law school websites. The websites’ presentations of the law school’s focus were analysed according to the perceived nature of approaches to curriculum, thus linking the ‘product’ presentation on the web with philosophical approaches to curriculum design. This offered an insight into the diversity of approaches to teaching law in Australia. The second phase has involved analysing the idea of the tropics to establish a means of conceptualising the university’s distinctiveness agenda in a way that would resonate with stakeholders. The focus on this aspect of the project has involved developing a ‘thematic lens’ that would lend itself to informing curriculum design in a sustainable way. Using the case study of the JCU LLB refresh, this paper explores the possibilities for invigorating curriculum through a focus on philosophical and thematic underpinnings.

I. INTRODUCTION

Since 2009, JCU has been undertaking a university-wide refresh of its curricula, supported by a grant from the Australian Government, Department of Education, Employment and Workplace Relations.¹ While the refresh was framed around a number of curricular elements,² the underlying rationale was enhancing the university’s distinctive role as Australia’s university for the tropics. As lawyers, it is perhaps of interest that, unlike most other Australian universities, our role as the university for the tropics is embedded in s 5 of the *James Cook University Act 1997* (Qld), which identifies our functions as (amongst other things):

(b) to provide facilities for study and research generally and, in particular, in subjects of special importance to the people of the tropics; and

(c) to encourage study and research generally and, in particular, in subjects of special importance to the people of the tropics; ...

* Senior Lecturer, School of Law, James Cook University, Cairns. The research for this paper was undertaken during the author’s appointment as faculty curriculum scholar as part of the JCU Curriculum Refresh Project, ‘Australia’s University for the Tropics’, funded by the Australian Government Department of Education, Employment and Workplace Relations through its Diversity and Structural Adjustment Fund and by James Cook University.

1 ‘Australia’s University for the Tropics’, funded by the Australian Government Department of Education, Employment and Workplace Relations through its Diversity and Structural Adjustment Fund and by James Cook University.

2 Teaching research nexus; reviewed assessment practices; work integrated learning; sustainability; external reference groups; access pathways for equity groups; first year; flexibility; innovative technologies to support student learning; Aboriginal and Torres Strait Islander knowledge, perspectives and experience; graduate attributes; internationalisation. See James Cook University, *Curriculum Refresh* (8 November 2010) <<http://www.jcu.edu.au/curriculumrefresh/about/index.htm>>.

While, in many disciplines at JCU, law included, this ‘statutory’ tropical focus had perhaps been underplayed or ignored, the current university-wide refresh requires academic staff to articulate how they would legitimately address the university’s charter. Regardless of a statutory mandate for curricular focus, all contemporary universities operate within a strategic planning framework and will be required to align their degrees with the university’s vision and mission. In this respect, the JCU project is no different.

The School of Law project is funded from the University-wide project, and revolves around finding a distinctive identity within these curricular elements³ and the tropical focus in particular. This has provided the opportunity for the JCU LLB to develop a distinct identity amongst LLBs nationally, that is reflected throughout a deliberately-designed curriculum through a ‘thematic lens’ of tropicality. Taking such a theme as a foundation for a law curriculum differs significantly from the approach of many different developments within Australian (and other common law) law degrees, over the past three or so decades, that have focused on integrating a more contextual and critical approach to law, and the introduction of a more skills-based curriculum.⁴ Likewise, it differs from contemporary issues facing Australian tertiary education curricula including globalisation or internationalisation,⁵ integrating Aboriginal and Torres Strait Islander perspectives and knowledge⁶ and sustainability education,⁷ and the issue particular to the law — student mental health.⁸

These themes and issues, the adoption of discipline standards for law,⁹ the new quality standards regime,¹⁰ increasing competition and the findings of the Bradley Report¹¹ together represent the contemporary higher education landscape within which a small regional law school is expected to compete. Distinctiveness, at the foundation of the JCU curriculum refresh,

3 Ibid.

4 Christine Parker and Andrew Goldsmith, “‘Failed Sociologists’ in the Market Place: Law Schools in Australia” (1998) 25 *Journal of Law and Society* 33; Nickolas J James, ‘A Brief History of Critique in Australian Legal Education’ [2000] *Melbourne University Law Review* 37; Margaret Thornton, ‘The Demise of Diversity in Legal Education’ (2001) 8 *International Journal of the Legal Profession* 37; Gary Davis, *Report to Council of Australian Law Deans on International Conference on the Future of Legal Education* (April 2008) Council of Australian Law Deans <<http://www.cald.asn.au/docs/FutureOfLegEdConfRptSummy.doc>>; Sally Kift, ‘21st Century Climate for Change: Curriculum Design for Quality Learning Engagement in Law’ (2008) 18 *Legal Education Review* 1.

5 Simon Chesterman, ‘The Evolution of Legal Education: Internationalization, Transnationalization, Globalization’ (2009) 10(7) *German Law Journal* 877.

6 Department of Education, Employment and Workplace Relations, *Indigenous Education Statement* <<http://www.deewr.gov.au/Indigenous/HigherEducation/Programs/Pages/IndigenousEducationStatement.aspx>>; Christine Asmar, *Australian Learning and Teaching Council Resource Library* (5 September 2011) Australian Learning and Teaching Council <<http://www.altc.edu.au/resource-indigenous-teaching-exemplars-melbourne-2011>>.

7 Australian Learning and Teaching Council, *Sustainability Resources for Learning and Teaching in Higher Education*, Learning and Teaching Sustainability <<http://sustainability.edu.au/>>.

8 Norm Kelk et al, *Courting the Blues: Attitudes towards Depression in Australian Law Students and Lawyers* (Brain and Mind Research Institute, 2009); Massimiliano Tani and Prue Vines, ‘Law Students’ Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?’ (2009) 19 *Legal Education Review* 3.

9 Sally Kift, Mark Israel and Rachael Field, *Learning and Teaching Academic Standards Project: Bachelor of Laws: Learning and Teaching Academic Standards Statement* (Australian Learning and Teaching Council, 2010).

10 Tertiary Education Quality and Standards Agency, *Overview* (2011) Department of Education, Employment and Workplace Relations <<http://www.deewr.gov.au/HigherEducation/Policy/teqsa/Pages/Overview.aspx>>.

11 Denise Bradley, *Review of Australian Higher Education: Final Executive Summary*, Department of Education, Employment and Workplace Relations <http://www.deewr.gov.au/HigherEducation/Review/Documents/PDF/Higher%20Education%20Review_Executive%20summary%20Recommendations%20and%20findings.pdf>.

represents the interface between government policy, market objectives and curriculum design — the creation of a marketable ‘product’ that fulfills a policy of universal higher education and quality standards, while representing best practice in curriculum design.¹² The challenge lies, therefore, in meeting these diverse contemporary imperatives in a cohesive way.

This paper examines how the JCU LLB has met this challenge. First, it provides an overview of the LLB landscape in Australia before clarifying an understanding of ‘curriculum’ based on recent literature. The next part analyses a selection of LLB websites to identify how curriculum may look distinctive based on a broad ideological approach, to identify where the JCU LLB may find its point of distinction. Finally, in terms of this point of distinction, this paper identifies how the tropical theme might relevantly inform curriculum in the context of a discipline that is not usually associated with the tropics. It will tell the story of how JCU is working with the idea of the tropics in developing a distinctive cohesive, relevant, contemporary — and compliant — law degree.

II. THE LLB LANDSCAPE IN AUSTRALIA

The evolution of Australian LLBs is well-described by others in the literature.¹³ In spite of the introduction of critical thinking and contextual approaches to law, contemporary developments in teaching and learning, and the evolution of approaches to teaching law, the law degree remains largely content-based.¹⁴ This is arguably a product of the ‘Priestley 11’¹⁵ which prescribe subject areas and content. It could not be argued, however, that the law curriculum is any more dictated by its accrediting body than other professional disciplines¹⁶ and, to this extent, there should be nothing to obstruct the development of innovative and distinctive curricula. The possibility for a distinctive law curriculum and the means by which this is achieved seems to depend on one’s perspective. For example, nearly a decade ago, Johnstone and Vignaendra identified a variety of ways in which Australian law schools perceive their distinguishing features.¹⁷

In terms of distinctiveness, Johnstone and Vignaendra cited Australian law schools’ responses to finding a ‘niche’ or being distinctive. While some sought to ‘develop their own particular vision of legal education’, others described ‘a long-sustained approach to legal education’.¹⁸ Importantly, one school said that it was:

not just positioning and distinguishing, it is all pedagogically driven ... We are not just inventing diversities. I think that it’s fair to say that there is a serious scholarly basis which underlies what we are doing.¹⁹

In their study, Johnstone and Vignaendra noted that, ‘for most schools, the concern is with distinguishing themselves within their local (city or state) market, rather than nationally’.²⁰ In today’s arguably even more global marketplace (even for law degrees and law graduates),²¹ differentiation takes a different form and universities are being put not just on the national but the international stage. In an increasingly market-driven higher education environment, distinctiveness becomes important for survival. It is suggested that differentiation based simply

12 See, eg, Wendy Purcell et al, ‘Positioning Universities: How HEIs Can Develop Distinctiveness Strategies’, *The Guardian* (online), 19 May 2011 <<http://bit.ly/mfljjk>>.

13 Parker and Goldsmith, above n 4; James, above n 4; Thornton, above n 4; Davis, above n 4; Kift, above n 4.

14 Davis, above n 4.

15 In Queensland, this is contained in *Supreme Court Admission Rules 2004* (Qld), Attachment 1.

16 Such as medicine, dentistry, education, etc.

17 Richard Johnstone and Sumitra Vignaendra, *Learning Outcomes and Curriculum Development in Law Report* (Australian Universities Teaching Committee, 2003) 25–7.

18 *Ibid* 32.

19 *Ibid* 31–2.

20 *Ibid* 31.

21 Kift, above n 4, 4.

on marketing is not sufficient if we seek to provide a program with intellectual integrity. Any claims about curriculum in a marketing sense must therefore result from a deliberately-designed program. It is likewise suggested that differentiation is entirely possible within the accredited LLB curriculum and that, unlike some may suspect, a law degree and standards imposed upon it do not constrain a law school or its students to a singular national curriculum.

This of course prompts the question — what do we mean by ‘curriculum’ in legal education?

III. MEANING OF CURRICULUM

Owen Hicks, in 2007, provided a comprehensive overview of the state of the concept of ‘curriculum’ in Australian higher education in which he identified ‘the dearth of writing on the subject’.²² Hicks surveyed internet sites of Australian universities, only to find one institution that had provided a clearly stated definition. In all other cases, he reports an impression that it is ‘something partial, used atomistically, in a limited and assumed way, usually attached to some other issue.’²³

Hicks provides a cogent argument about the need to understand the ‘unifying potential of curriculum, defined broadly.’²⁴ Relevantly here, he identifies how this approach can ‘re-position or re-shape disciplines and discipline based courses’²⁵ — the very intent of the JCU curriculum refresh. In particular, the genesis of the LLB refresh project lay in the observation that while academic staff may ‘cover’ the graduate attributes and curricular foci — internationalisation, Aboriginal and Torres Strait Islander perspectives, etc — there was no *systematic* approach to the design of a unified ‘program’ that brought together not just content or an approach to teaching, but the diverse elements of contemporary teaching and learning practice and ‘key issues in higher education’.²⁶

Importantly also, the idea of a ‘program’ implies something bigger than the directly assessed subject or unit — what has been described as a ‘broad’ curriculum.²⁷ In Hicks’ paper, this reflects the ‘how’ — the nature and quality of the learning opportunities provided, which on a curriculum-focused student learning model, would ‘integrate into other aspects of the development and delivery of the learning opportunity’.²⁸ Importantly also, it recognises the need for a more holistic approach to the design of curriculum — something that could be referred to as a ‘thematic lens’ or an:

interdisciplinary approach to instruction. This approach focuses on one concept, and seeks to define and describe that concept through a variety of perspectives and fields of study ... The benefits of the thematic lens approach to learning are both the ability to look deeper into a single topic, and to gain a broad, cross-disciplinary understanding of said topic.²⁹

While there appears to be little in the literature, this approach to curriculum design draws on the work of Erickson.³⁰ Erickson uses the context of academic standards in US schools to explore

22 Owen Hicks, ‘Curriculum in Higher Education in Australia — Hello?’ (Paper presented at the Enhancing Higher Education, Theory and Scholarship, Proceedings of the 30th HERDSA Annual Conference, Adelaide, 8–11 July 2007) 2.

23 Ibid 4.

24 Ibid 1.

25 Ibid 1.

26 Ibid 1.

27 Barbara Bagilhole and Jackie Goode, ‘The Gender Dimension of Both the “Narrow” and “Broad” Curriculum in UK Higher Education: Do Women Lose Out in Both?’ (1998) 10 *Gender and Education* 445.

28 Hicks, above n 22, figure 4.

29 Emily Vinson et al, *Through the Looking Glass: Thematic Lenses, Rich Media, and the Texas Legacy Project* (University of Texas, 2009) 1.

30 H Lynn Erickson, *Concept-Based Curriculum and Instruction: Teaching beyond the Facts* (Sage, 2002).

the use of concepts — or a thematic lens — in curriculum design. She observes that the pressure of meeting academic standards is high but that there is a tendency to interpret ‘raising standards’ as ‘learning more content’,³¹ but that ‘the standards and newer assessments assume that students will demonstrate complex thinking, deeper understanding and sophisticated performance.’³²

Erickson could be describing the move towards discipline standards in the Australian tertiary context and on this basis, her proposed solution to meeting national standards provides inspiration for the means by which the LLB might evolve from the traditional focus on content while incorporating elements of contemporary curriculum design.

Of particular resonance is Erickson’s description of the structure of knowledge and traditional curriculum in terms of facts and topics as lower order thinking skills — content. Acknowledging that these are important, she illustrates that above these sit concepts and theory as higher order analytical skills or approaches.³³

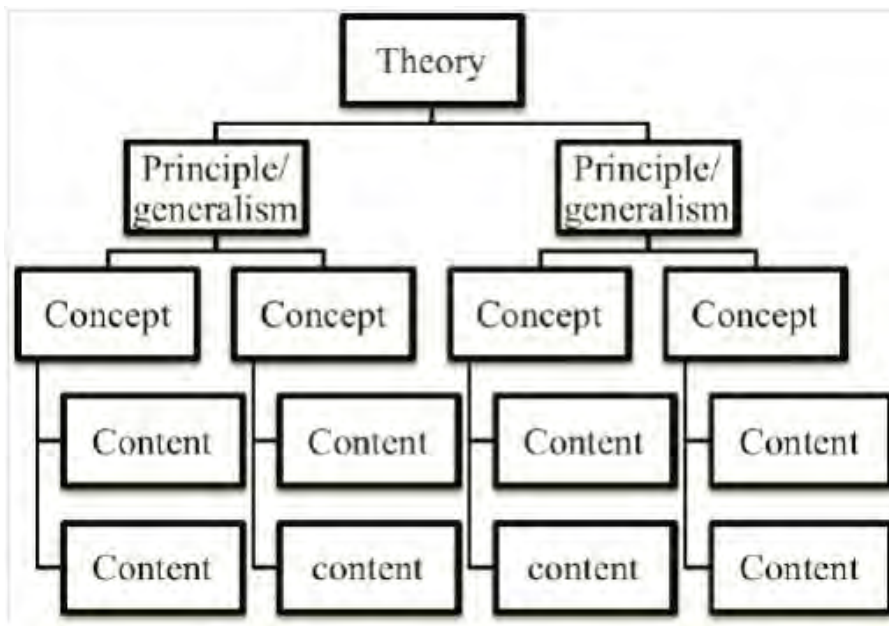


Figure 1³⁴

The lower order skills, involving learning content (or in Erickson’s terms, ‘facts’)³⁵ are known to be a feature of law school curricula world wide.³⁶ Arguably, this focus on content rather than context limits students’ experience of law as a holistic mechanism. Using a thematic lens seeks to remedy this traditional approach to the law curriculum that segregates the discipline into silos of ‘knowledge’.

Embracing a wider definition of curriculum is likely to be necessary to respond to the new regulatory framework. The recent TEQSA Discussion Paper for example suggests that teaching standards ‘include curriculum design, the quality of teaching, (and) student learning support ...’³⁷ In addition the increasing complexity and layers of reporting (accreditation, graduate

31 Ibid 2.

32 Ibid xi.

33 Ibid 4–5.

34 Ibid 5 (adapted).

35 Ibid.

36 Davis, above n 4, 3–4.

37 Department of Education, Employment and Workplace Relations, ‘Developing a Framework for Teaching and Learning Standards in Australian Higher Education and the Role of TEQSA’ (Discussion Paper, June 2011) 3.

attributes, standards to name a few) will require us to think of curriculum in a more complex way.

Understanding curriculum in this wide and more conceptually cohesive sense facilitates the JCU refresh of the LLB, making it possible for curriculum to embody a number of themes, a number of processes and a number of ways of learning. This was the foundation for exploring other Australian LLB programs to identify how JCU might express its own distinctiveness in the national market, within the curriculum refresh framework.

IV. ANALYSIS OF OTHER LLB CURRICULA

In assessing the way in which the JCU curriculum could be distinctive, the first part of the LLB refresh looked at the approaches to the LLB curriculum taken by a number of other Australian law schools. The project was interested in exploring how other law schools represented their degrees to the public in terms of the JCU refresh themes. For this reason, this part of the project relied on the external manifestation of law school websites as one means by which to gauge an institution's view of itself.

Initially a desktop review of Australian law school websites identified the extent to which law schools appeared to embody the curriculum refresh key themes.³⁸ These law schools were narrowed down to those that represented their degrees in terms of the highest number of the JCU refresh themes. Those that were ultimately selected also delivered an LLB in a context more aligned with that of JCU (by size, demographic of cohort, resource base and location).³⁹ A similar, though more detailed, approach was taken by Johnstone and Vignaendra.⁴⁰

A review of Deans' welcomes and course overviews located on the selected law schools' websites revealed that each LLB was represented in terms of a particular focus. While each law school could claim a different focus, there appeared to be four primary approaches taken: emphasis on discipline focus; practical skills; service to community; and external cohort. While not stated explicitly by the institutions involved, the different types of 'distinctiveness' that seemed to be represented by law schools on their websites aligns somewhat with different ideological approaches to curriculum design:

- a) scholar academic (discipline based);
- b) social efficiency (practical skills);
- c) learner centred (external cohort); and
- d) social reconstruction (service to community).⁴¹

These different categories are loose, and they overlap. However reviewing the websites of different law schools by reference to these approaches highlights particular emphases in their approach to their LLBs. For the JCU refresh, these approaches provide a useful point of reference for curriculum design, and give clues about how the curriculum might be developed from one of these particular standpoints.

The discipline focus took a number of different forms. Deakin University for example has deliberately positioned itself as a commercial degree, supported also with practical skills. In this case, the practical skills align with the commercial focus (while also representing a

38 James Cook University, above n 2.

39 The schools ultimately included in the website survey include: QUT, Griffith University, University of Southern Queensland, Southern Cross University, University of New England, Newcastle University, Deakin University, Flinders University, Murdoch University and Charles Darwin University.

40 Johnstone and Vignaendra, above n 17.

41 Michael Schiro, *Curriculum Theory: Conflicting Visions and Enduring Concerns* (Sage Publications, 2008) 4–6.

second category of approach).⁴² In contrast, Murdoch University takes a thematic approach of internationalisation both within elective subjects but also in facilitating international links and opportunity for student travel.⁴³ Charles Darwin University focuses on ‘issues of special significance to the Northern Territory, including Aboriginal legal issues and South East Asian law’.⁴⁴

Griffith University takes the discipline focus in a different direction again, vertically embedding ‘ethics, legal theory, Indigenous issues, and internationalisation’.⁴⁵ This aspect of the Griffith LLB will inevitably overlap with the community service focus.

As with discipline focus, practical skills likewise was represented as a broader, more overarching course attribute, or a more particular one — depending on the school. Of the schools surveyed, Queensland University of Technology (‘QUT’) probably has the most identifiable and embedded branded approach to practical skills development. Having branded itself the ‘university for the real world’,⁴⁶ the entire curriculum is designed with ‘real world practice’ embedded within it. The most striking point of distinctiveness in these terms, is the requirement that every student has the opportunity to participate in a work integrated learning subject.⁴⁷ Legal skills however are also included throughout the curriculum, taught by ‘real-world academics’.

Deakin University provides a slightly more particular approach, aligned with its discipline focus on commercial law:⁴⁸ ‘Law students will emerge from Deakin with a broad technical competency, a specialisation in commercial law and an appreciation of how the law operates in practice’ and students are required to complete 30 days in legal practice to ‘enrich’ their legal education.

Many of the law school sites surveyed represent their external offerings as distinctive — often through university branding rather than the school itself. Southern Cross University has promoted itself as a quality provider of distance education. Likewise, Universities of Southern Queensland and New England cater specifically for external students.⁴⁹

Service to community is reflected in terms of a social justice agenda and ethical persona. Griffith (where ‘social justice is hard wired into [their] values’⁵⁰) and Southern Cross Universities (where the School of Law and Justice aims to ‘enhance the cultural, social, economic and intellectual development’ of the region⁵¹) could be regarded as having the strongest focus on this idea, and Charles Darwin University’s focus on issues of relevance to the Northern Territory,

42 Deakin University, School of Law, *Bachelor of Laws Course Overview* <<http://www.deakin.edu.au/future-students/courses/course.php?course=M312&stutype=local&continue=Continue#OVERVIEW>>; Deakin University, School of Law, *Practical Orientation* <<http://www.deakin.edu.au/buslaw/law/undergrad/practical.php>>.

43 Murdoch University, School of Law, *Dean’s Welcome Message* <<http://www.law.murdoch.edu.au/welcome.html>>.

44 Charles Darwin University School of Law and Business, *Home* <<http://www.cdu.edu.au/lawbusiness/index.html>>.

45 Griffith University, *Undergraduate Programs* <<http://www.griffith.edu.au/criminology-law/griffith-law-school/programs-courses/undergraduate-programs>>.

46 Queensland University of Technology, *Home Page* <<http://www.qut.edu.au/>>.

47 Queensland University of Technology, Law School, *Work Integrated Learning* <<http://www.law.qut.edu.au/about/wil/>>.

48 Deakin University, Faculty of Business and Law, *Practical Orientation* <<http://www.deakin.edu.au/buslaw/law/undergrad/practical.php>>.

49 Southern Cross University, School of Law and Justice, *Study Law by Distance Education* <<http://www.scu.edu.au/schools/law/index.php/29>>; University of New England, *Distance Education* <<http://www.une.edu.au/about/off-campus-ed/>>; University of Southern Queensland, Faculty of Business and Law, *Welcome to Law at USQ* <<http://www.usq.edu.au/business-law/schools/law>>.

50 Griffith University, Criminology and Law, *Social Justice* <<http://www.griffith.edu.au/criminology-law/social-justice>>.

51 Southern Cross University, School of Law and Justice, *Research and Scholarly Publications* <<http://epubs.scu.edu.au/law/>>.

including Indigenous legal issues, may likewise be seen to represent distinctiveness in terms of service to community. Griffith University also aims to ‘nurture students that are passionate, idealistic, and committed to critical thinking. We also want our students to respect diversity, to value tolerance for different ideas and ways of understanding and to, above all, respect justice.’⁵²

Reflecting the basis for selection of the law schools reviewed, these four approaches to curriculum are reflected in the web presence of each law school in terms of the JCU curriculum refresh themes.⁵³ For example Griffith and Southern Cross Universities are focused on serving community and so ethics and social justice, through JCU’s focus on Indigenous perspectives and pathways, are embedded within their degrees. For schools that see their location as central to serving community, there is a focus on JCU’s curricular elements of external delivery and flexibility.

The project team had some considerable discussion about where any ‘gap’ might lie, in terms of JCU’s curriculum priorities. It was observed that in the websites surveyed, there was little if any mention of ‘sustainability’ within the curriculum. Accordingly, it seemed that there was scope to interpret this theme in a way that would provide a thematic focus for curriculum that was distinctive amongst the offerings of the surveyed institutions.

Consequently, the proposed outcome of the next phase of the project is to adopt and embed ‘sustainability’ in all awards offered in the School to provide it with both distinctiveness but also the potential to represent the tropics within the curriculum. This phase of the project is occurring now. This prompts the question, however, of how this might feed in to the overarching focus of the tropics. This would require representing JCU’s unique tropical focus through the conceptual device of sustainability. To do so requires an appreciation of what the tropics might mean within our discipline, and a framework for a thematic lens in curriculum.

V. TROPICAL LAW?

It is highly unlikely that any lawyer, even those who have practised or do practise in the tropics, would find any meaning in ‘tropical law’. The common understanding of the tropics focuses primarily on a location between the Tropics of Capricorn and Cancer — a location that does not represent any particular jurisdiction known to the law. To find such a meaning, a review of literature in the field of cultural geography reveals a variety of much broader and richer meanings of the tropics.

In the same way that the ‘north-south divide’ is no longer truly representative of a location literally north and south of the equator, so too can the tropics be untethered from its literal geographical location. Arnold for example identifies tropicality as a ‘discursive representation of the tropics’ and that it embraces a ‘variety of cultural tropes’.⁵⁴ Livingstone builds on this to point out that ‘tropicality ... is as much a conceptual as a physical space’.⁵⁵ The notion of the tropics as a ‘geography of the mind’ is a useful starting point for developing a ‘thematic lens’ to inform a distinctive curriculum.

Starting at Erickson’s highest conceptual level of ‘theory’⁵⁶ is the tropics. As a concept, the tropics has a deep cultural underpinning grounded in European notions of self. From the time of the ancient Greeks, the climate of the tropics was perceived as hostile and its peoples exotic. This theme continued and informed the voyages of discovery and approaches to the new world. The tropics was simultaneously fecund and diverse, as well as degenerate, depraved, abnormal,

52 Griffith University, Criminology and Law, *Teaching Expertise* <<http://www.griffith.edu.au/criminology-law/law/teaching-expertise>>.

53 James Cook University, above n 2.

54 David Arnold, ‘“Illusory Riches”: Representations of the Tropical World, 1840–1950’ (2000) 21(1) *Singapore Journal of Tropical Geography* 6, 7.

55 David Livingstone, ‘Tropical Hermeneutics: Fragments for a Historical Narrative and an Afterword’ (2000) 21(1) *Singapore Journal of Tropical Geography* 92, 92.

56 Erickson, above n 33.

foreboding, dangerous, deceptive and pestilent.⁵⁷ It was a place of immorality where the white man (sic) would slip into indolence and sexual proclivity — a place to be tamed and controlled. This perception of the tropics informed the science and medicine of Victorian times and existed into the 20th century, including in the seminal geographical work of Pierre Gourou in 1947.⁵⁸

All this recognises that the tropics is so much more than a place. Indeed geographers and climate scientists disagree about its definition in scientific terms — the tropics might be defined based on average temperature, rainfall, soil type, astronomical location — the list goes on. On some reckonings, Townsville itself would be excluded from a tropical location.

The tropics of the mind is perhaps most influenced by Orientalism and Edward Said's thinking about the discourse surrounding things oriental as a European positioning and creation of something that did not actually exist other than within the European mind. Like “darkest Africa”, the “Orient” and the “Pacific world”⁵⁹ the ‘geographical imaginary of the tropics [is] an interpretive frame, constructed, enacted and disciplined in the process of European expansion into the tropical world’.⁶⁰ As JCU deepens its understanding of its identity as the university for the tropics, this traditional imagery needs to be challenged and re-imagined in a positive sense.

And this is where the tropics takes on meaning as a conceptual lens for our curriculum — for the tropics is not only a literal place, but is also an idea that still encompasses exclusion and exploitation and ‘otherness’ in terms of a European hegemony. For JCU to become the university for the tropics involves engaging in teaching (and research) that seeks to counter this historical approach through a focus on countering the negative space of the idea, focusing instead on sustainability and representation of peoples of the tropics in their own terms.

In terms of the LLB, this means teaching and researching critically — challenging traditional parameters of colonialism and empire and focussing on models of sustainability in governance; economy and finance; community development; and the environment. The tropics viewed in this sense has potential to bring together diversity of experience and expertise of the law school's academic staff and its subject program through a common narrative of the experience and vision of those from within the tropics, rather than that of those outside around the key organising principles of governance, economy, community and environment.

In terms of governance, public law subjects — foundations of law, administrative law, constitutional law — would focus on sustainability through the concept of civil society, legitimacy of governance and systemic sustainability as the drivers of the selection of readings, of class activities and of assessment.

For private law — contract, torts, land law — likewise, sustainability of relationships and the balance between public and private, free market and social responsibility are tested through an understanding of the elements of contract, torts and the regulatory system of land ownership.

Social justice — sustainability of community — can be built in to existing foundation subjects but also be represented in, for example, critical approaches to criminal law as well as elective subjects such as human rights.

In each case, the ‘content’ of a subject need not be changed. There is no suggestion of ‘fitting more in’ or ‘losing’ content. Nor is the aim of this conceptualisation is not to pigeonhole any particular subject within a rigid framework. Rather, it offers a conceptual or thematic underpinning from which each academic can make an informed and deliberate curriculum

57 See, eg, Arnold, above n 59, 6; Stephen Frenkel, ‘Geography, Empire, and Environmental Determinism’ (1992) 82(2) *Geographical Review* 143; Mike Hulme, ‘The Conquering of Climate: Discourses of Fear and Their Dissolution’ (2008) 174(1) *The Geographical Journal* 5; David Livingstone, ‘Tropical Climate and Moral Hygiene: The Anatomy of a Victorian Debate’ (1999) 32(1) *British Journal for the History of Science* 93.

58 Pierre Gourou, *The Tropical World* (ED Laborde trans, Longmans Green, 1953) 1 [trans of: *Les Pays Tropicaux* (first published 1947)].

59 Livingstone, ‘Tropical Hermeneutics’, above n 55, 92.

60 Felix Driver and Brenda Yeoh, ‘Constructing the Tropics: Introduction’ (2000) 21(1) *Singapore Journal of Tropical Geography* 1, 4, citing Livingstone, ‘Tropical Hermeneutics’, above n 55..

design decision in terms of their particular interest within their area. In doing so, the underlying conceptual basis affords a means by which each subject in the LLB interrelates with each other.

This wider view also affords an approach to knowledge and intellectual endeavour — one that reflects inclusiveness and rejects exploitation. In the first sense, Aboriginal and Torres Strait Islander knowledge should be represented in curriculum. In the latter sense, intellectual endeavour represents the coming together of the known and the imagined.

VI. CONCLUSION

The distinctiveness agenda has been challenging for a professionally accredited degree. Observing and engaging in discussion with other law schools has in one sense affirmed our own practice without necessarily highlighting how we could do things differently. Overlaying a theoretical framework (Schiro's) atop practical representations and descriptions of our (JCU) curricular dimensions assists in giving meaning to the distinctiveness agenda and highlighting the differences. But bringing in Erickson's conceptual or thematic lens as a means of infusing a sense of overall purpose to the curriculum not only brings the elements of the law together, but also provides the opportunity for a depth of thinking and skills development that lends itself to the contemporary focus on a much broader education for our students.

Taking the thematic lens of the tropics in a conceptual rather than a literal (geographical) sense can provide a number of concepts through which to filter the LLB curriculum. Through an overarching statement of what the tropics means for the LLB, concepts that form the foundation of the curriculum refresh project can then emerge to provide a rich environment within which the content of each subject is presented. Rather than learning the elements of each subject through cases or legislation, their exceptions and evolution in a decontextualised environment, a focus on say sustainability — a key concern for the tropical world — can guide teaching and therefore learning.

In looking to the history of peoples of the tropical world, 'us' and 'them', othering, stereotyping, devaluing of culture of indigenous peoples provides a context for exploring the sustainability of legal systems and of celebrating previously devalued ways of knowing such as indigenous ways of knowing, and the treatment of peoples by the law.

Our students report experiencing an atomistic degree where there is a lack of connection from one subject to the next. Through focus on a thematic lens, we have the opportunity to provide a meaning and context — a narrative and sense of place — that underpin learning and afford the opportunity for a connectedness with learning and the bigger picture of the law.

What this highlights is the importance of a considered and philosophical approach to curriculum development, advancing alignment of curricula in an authentic way. While this has the happy outcome of satisfying strategic direction, it likewise provides an exciting, legitimate and consistent focus for curriculum development.