

Legal Education: Problem-Based Learning at the Law Faculty of the National University of Malaysia

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Abstract: Globalisation has impacted upon the life of many including education providers. Globalisation introduces competition. Competition has led to innovation. In the world of higher education, the transformation in Teaching and Learning (T&L) has led to a paradigm shift in teaching methodologies at the Faculty of Law. The application of Problem-Based Learning (PBL) in the first year of study in the Faculty of Law at the National University of Malaysia showed the relevance of the curriculum of law studies that is dictated by the desire of the industry. PBL that emphasises on the professionalism skills and the application of key generic skills of the advocacy world enable law students to compete at the national and global levels. With relevant advocacy skills, particularly in client consultation and negotiation skills as well as contract drafting in the contract game, students are trained as early as year 1 to prepare themselves with the challenges of advocacy world that they would enter. This study reveals the PBL learning scenarios generally in law studies and particularly on the application of PBL in year 1 curriculum of law studies in the contract law course at the Faculty of Law, the National University of Malaysia.

Key words: Problem-based learning, teaching and learning, contract law, Faculty of Law, the National University of Malaysia

INTRODUCTION

Problem-based learning defined: Discussion on Problem-Based Learning (PBL) starts with some basic questions as follows. What is PBL? Is it something very distinct and different from conventional teaching and learning methods that have long dominated the education system? It should be recognised that it is not easy to provide precise definition that is acceptable universally because it depends on respective perceptions regarding the essence of the expression concerned. Therefore, Torp and Sage defined PBL “as focused, experiential learning organised around the investigation and resolution of messy, real-world problems”. Meanwhile, Savery (2015) stated that:

PBL is an instructional (and curricular) learner-centered approach that empowers learners to conduct research, integrate theory and practice and apply knowledge and skills to develop a viable solution to a defined problem. Critical to the success of the approach is the selection of ill-structured problems (often interdisciplinary) and a tutor who guides the learning process and conducts a thorough debriefing at the conclusion of the learning experience

Barrows and Kelson (1993) opined that:

PBL is both a curriculum and a process. The curriculum consists of carefully selected and designed problems that demand from the learner acquisition of critical knowledge, problem-solving proficiency, self-directed learning strategies and team participation skills. The process replicates the commonly used systematic approach to resolving problems or meeting challenges that are encountered in life and career

On the other hand, Hung *et al.* (2008) defined PBL as:

An instructional method that initiates students’ learning by creating a need to solve an authentic problem. During the problem-solving process, students construct content knowledge and develop problem-solving skills while working toward a solution to the problem

PBL offers a new paradigm to teachers and also students in the effort of transmitting and acquiring knowledge and information in the legal study. A matter that is emphasised by the pioneers of this method is that the process of transmission and acquisition of knowledge and information are more student-oriented,

not teacher-oriented. In other words, the focus is on the students themselves in which they will analyse the types of problems they are facing, identify the existing and future information from which source certain information can and should be obtained and also the most appropriate measure to be taken in order to resolve the problems, apart from among those who are supposed to play a certain role. In this process, the teacher only acts as a facilitator and not the provider of the ideas or even the full-time informant. In short, PBL targets students to learn about ways to learn (learning how to learn). This is in line with the Malaysian Education Development Plan 2015-2025 which states that among the six key features needed by each student so that they are competitive at the global level are the knowledge and thinking skills.

PBL: HISTORICAL PERSPECTIVE

PBL has been utilised as a mode of T&L for nearly 50 years in a variety of different disciplines. The modern history of PBL began in the 1970s at the School of Medicine of McMaster University, Ontario, Canada. However, the intellectual history was said to have been traced back earlier than that date in which the like of Thomas Corts (the President of Samford University) who saw PBL as “a newly recovered style of learning” that combined the dialectical method-questions-answers of Socrates’ style with the dialectical method of thesis-anti-thesis-synthesis of Hegel’s style (Rhem, 1998). The use of this method (Socrates-Hegel Method) was not widely known by so many people at that time (in the 1960s) and it was not disclosed as it is now. In other words, PBL has long existed even outside of attention and awareness. Although at first, the method was more widely used in medical faculties but over time, it has also been applied by

other faculties including the Faculty of Law at several universities in the countries such as Hong Kong, Australia, United Kingdom as well as Malaysia.

THEORIES BEHIND PBL

In recognizing the method T&L that is PBL based, surveys on the theories that support the method are able to enrich its understanding. Table 1 below briefly presents the theories of PBL.

Meanwhile, Hung *et al.* (2008) expressed that there are two classes of components that are needed, namely core component and processing component. The core component which consists of content, context and connection, describes the issues of suitability and sufficiency of content knowledge, knowledge contextualization and knowledge integration. Meanwhile, the processing component that includes researching, reasoning and reflecting is the acquisition of content

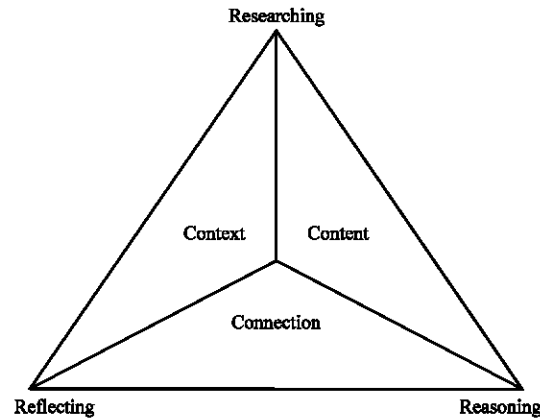


Fig. 1: 3C3R Model of PBL by Hung *et al.* (2008)

Table 1: Theories of PBL

Cognitive constructivism theory (Piaget)	Social constructivism theory (Vygotsky)
The MIND is in the head; focus on “cognitive reorganization”	The MIND is in social transactions and emerges from acculturation into a community of practice
RAW materials; uses primary data, “manipulatives” or other interactive materials	Authentic problems; learning environments reflect real-world complexities
Student autonomy; thinking and learning responsibility in students’ hands to foster ownership	Team choice and common interests; builds on common interests and experiences within a learning group and gives some choice to that group; learning activities are relevant, meaningful and both product and process oriented
Meaningfulness and personal motivation; learning related to personal ideas and experiences	Social dialogue and elaboration; uses activities with multiple solutions, uncertainty, novelty, etc., demanding dialogue, idea sharing, etc., encourages student’s elaboration/justification for their responses through discussion, questioning and group presentations
Conceptual organization/cognitive framing; information organised around concepts, problems, questions, themes, interrelationships; activities framed within thinking-related terminology	Group processing and reflection; encourages group processing of experiences
Prior knowledge and misconceptions; builds on prior knowledge and addresses misconceptions	Teacher’s explanations and support, demonstrations; demonstrates the problem’s steps and provides hints, cues and clarifications when requested
Questioning; promotes individual inquiry with open-ended questions; encourages question-asking behaviour	Multiple viewpoints; fosters multiple ways of understanding a problem; builds in audiences beyond the instructor

<http://dt.stanford.edu/~jeepark/jeepark+portfolio/PBL/theory.htm>

knowledge and developing problem-solving skills and self-directed learning skills. Figure 1 illustrates the opinions by Hung *et al.* (2008).

PBL IN TEACHING AND LEARNING OF LAW

Several literature on the PBL Method utilised in law courses have demonstrated that there are relatively many law lecturers who are eager to apply PBL as part of their teaching methodology. There are suggestions that the application of PBL Method for T&L of law promotes (MacKinnon, 2006):

- Contextualization
- Cross discipline
- The integration of personal knowledge and previous professional
- Research skills
- Reflection and changes/improvements
- Self-assessment and guidance
- Praxis

According to the PBL Method, generally, students are 'forced' to learn how to solve problems presented by relating those to their own experiences. They learn to solve cases that are designed based on the authentic real-world problems. These cases are presented to the students in some form or format. There are times when they are processed in the form of moot questions where students must use their knowledge and skills including the skills of advocacy to analyse the facts and issues of the case to identify and to apply relevant laws and others. In other cases, the problems will be made in the form of client counselling or consultation. All these processes are done collectively at the vertical level and individually at the horizontal level (for example, for a moot-formatted problem at the vertical level, one of them will act as a group leader/project manager who is responsible for the entire research/inquiry of the group while at the horizontal level, there are students who would act as counsels for the plaintiff and for the defendant and also there are those who act as judges). Typically, each parent group consists of five or six students.

The lecturer does not hold any active role except acting as a facilitator where he/she is responsible for helping the students in the following matters:

- Reflect on their experiences in solving the problems
- Ask them to articulate the concept as well as to apply the skills they have learnt
- Assist them to identify all cognitive skills needed to solve problems, work in a team and the articulation of ideas
- State the principles behind all the skills

TEACHING AND LEARNING OF LAW AT THE FACULTY OF LAW, THE NATIONAL UNIVERSITY OF MALAYSIA

Programme design background for the Bachelor of Laws (with Hons.) (LL.B. (Hons.)) programme at the Faculty of Law the National University of Malaysia: The study programme of Bachelor of Laws (with Hons.) (LLB (Hons.)) at the Faculty of Law (FL), the National University of Malaysia (UKM) requires four years to complete. The law curriculum established for this programme is consistent with the requirement and needs of the legal profession as a whole and also taking into account the development in the law and the development of the local legal system. The main principles that become the guidance in designing the curriculum of law programme in the early stages of drafting the programme are based on the legal structure of the programme that has been recognised by the Legal Profession Qualifying Board and the Bar Council. Along with the application of Sharia law in Malaysia and the high market demand for skills of practicing law in a particular field such as the field of Islamic banking, Sharia law courses have also been introduced in the stages of year 1-4. The design of the FL UKM curriculum is also influenced by the development inside and outside of the country, including the need to control the resolution of disputes outside the courts; high-impact globalisation and liberalisation on the corporate and commercial legal frameworks; the impact of technological development on the development of the law; the improvement on the usage of Information and Communication Technology (ICT) skills and practical law, for example, online discussion and negotiation, online customer portal, online counselling, electronic filing of documents and the establishment of e-Court and the emergence of new areas of law such as cyber laws and issues of bio-valley (patents, genetic, bioethics). Overall, the development of law curriculum that is based on the substantive law, procedural and international focuses on the implementation of critical legal thinking.

In the aspect of Teaching and Learning (T&L) at the level of LLB (Hons.) at the FL UKM, various T&L Methods are emphasised to ensure effective learning process including legal methodology (critical research, logic and decision-making), the use of information technology, problem-based learning, seminar presentations, fieldwork including visits, interviews and report writing, internship programmes and multidisciplinary teaching-learning activities. The T&L System in FL UKM is designed to meet the educational

Curriculum of law for LLB (Hons.) programme				
Programme learning outcome				
<p>Mastery of basic knowledge; practical skills and psychomotor skills; scientific method, critical thinking, problem solving, autonomous in decision-making; communication, leadership and teamwork skills; lifelong learning; personal characteristics, ethical of partnership value and professionalism; social responsibility and accountability as well as entrepreneurial and managerial skills</p>				
Domain of education				
<p>Knowledge acquisition Mastery of generic skills Development of attitude</p>				
Domain of knowledge				
<p>Legal basis of Malaysia: The knowledge underlying the Malaysian legal system</p>	<p>Basic philosophy: The knowledge that associates law with the life, society and the universe</p>	Secular laws		
		Substantive	International	Professional practices
		Sharia laws		
		Substantive	Professional practices	
<p>Practical: Training that associates theories and practices</p>				

Fig. 2: Law curriculum for the LLB (Hons.) Programme at FL UKM

objectives in three main domains, namely the acquisition of knowledge, the mastery of generic skills and attitude development.

Overall, the law curriculum for the LLB (Hons.) programme in FL UKM is developed based on a holistic model that includes three types of laws; substantive, procedural and international groups that are based on 2 major national laws, namely secular law and Sharia law, based on the learning outcome of programmes that mobilises the mastery of knowledge, generic skills and attitude development. The holistic law curriculum that is applied for the LLB (Hons.) programme in FL UKM is illustrated in Fig. 2.

PBL in contract law course at FL UKM: PBL which was introduced as one of the methods of T&L for year 1 in 2007/2008 session for the courses of UK1073 and UK1083 Contract Law I and II at the Faculty of Law (FL) UKM has the objectives of strengthening the basic legal knowledge (understanding and application) of students through industry-related activities and generating and enhancing students' generic skills. This method was introduced as early as year 1 to enable students to improve their understanding and application of contract law and become intimately familiar with the particular skills required in workplace. Two types of PBL Modes that have

been identified for UK1073 and 1083 of Contract Law I and II are client consultation and contract game (contract negotiation and drafting). The followings are the characteristics of the contract law PBL for year 1:

Students learn the law through specific scope of work that reflects the true nature of a lawyer specialising in contract law, for example, franchise contracts, construction contracts, contracts of sale of goods and other contracts. Each group will be given a specific contract and asked to review the contract. For client consultation, students are divided into large groups containing four persons (the big group is divided into two small groups acting as lawyers and clients). For contract game, students are divided into groups consisting of five students per group. This large group will be divided into two small groups of two or three people for each small group. The small groups represent the firms acting for the clients who wish to enter into a contract.

For each of the bigger group identified, either for client consultation or contract game, the group is required to hold group discussions for the following purposes:

- To appoint the leaders for the big group and small group and other portfolios who are suitable to manage the group such as the secretary, treasurer and others

- To understand the rules of PBL that have been provided
- For client consultation, students who act as the clients will formulate questions (as complex as possible) based on the scopes that have been identified by the lecturers while the students who act as lawyers will learn and understand the principles of law relating to the scopes. For contract game, each student in a small group must understand the types of contracts to be negotiated. The suitable terms of contract should be identified for the negotiation purpose during the negotiation sessions later
- To carry out extended studies that include two types of methods, namely, literature review or library research and fieldwork studies. These extended studies are necessary to ensure that every student understands the scope of the contract, the procedures for client consultation and the procedures for negotiation and contract drafting for contract game, whether based on the literature review (including the use of ICT) or interviews with legal practitioners and relevant agencies that have been identified. Findings of these studies would have to be documented and submitted in the final report
- To document the identified problems for client consultation as well as problem solving and the authority referred to and in the contract game to draft a contract that has been agreed
- To present in the form of client consultation sessions or the contract game in the form of negotiation. The time allocated for each session is 40 min

In PBL, the students play major roles and are responsible for the acquisition of their knowledge and learning. This way, students will be able:

- To master the basic knowledge of law
- To analyse the legal authorities in order to strengthen the group's problem-solving skills
- To use legal resources effectively
- To apply advocacy skills

PBL occurs in the context of small groups. Various generic skills such as professional skills, leadership skills, communication skills and teamwork skills will be refined in PBL activities.

The lecturers work as facilitators and evaluators. Lecturers are not directly involved in solving the given problems. Lecturers provide the schedule for discussions with each group. The activities of the students will be monitored through the meetings of the lecturers the group/team leaders.

In applying PBL in a law course syllabus at FL UKM, students will be provided with the Problem-based Learning Module. For example, the PBL Contract Game Module is equipped with nine following items:

The rules of PBL 'the contract game': These rules contain the description of the main activities of PBL contract game including:

- Group division
- Preparation of reports
- Presentation
- Submission of documents
- Commitment of members
- Questions
- Schedule of discussions
- Peer evaluation

The contract game evaluation rubric: This sheet explains the details of the evaluation marks based on the distribution of marks for the PBL which includes:

- Domain 1: basic knowledge
- Domain 2: advocacy skills
- Domain 3: communication skills
- Domain 4: teamwork skills
- Domain 5: professionalism and leadership skills

Group division and scope of the contract: Students are divided into large groups that consist of students from different races, genders and educational background. The group division is done by the lecturers. The scope of the problem is determined by the lecturers by selecting the types of contracts that are available in the world of employment. The scope is developed through skeletal by simply providing the basic information which then must be expanded by the groups. For client consultation, the small groups of clients should develop the problems based on the scope of the contract that has been identified by the lecturers while for the contract game both small groups in the large groups need to study the terms of the contract in the contract that has been identified to be negotiated during the presentation session and subsequently drafting the contract documents based on the negotiations.

Meeting attendance record form of the large and small groups (including minutes of the meetings): Large and small groups should hold regular meetings and record the attendance. The appointed Secretary must prepare the minutes of the meetings for each meeting.

Group financial record form (including the statement of accounts): The treasurer appointed for each group must prepare two financial statements, the forecast budget and the actual financial statements. All revenues and expenditures must be recorded and the proof of the expenditures should be attached to these records.

Final report of the large and small group leader: Each leader, whether the large group or the small group leader, shall prepare the final report of the project that contains, inter alia, milestone/Gantt chart of activities, the commitment of team members, the problems encountered and the solutions as well as the recommendations for the improvement of PBL.

Peer evaluation form: The commitment to the duties assigned is an important characteristic of PBL. In addition to that the students also need to be transparent and honest in carrying out the duties of PBL. Hence, the peer evaluation system is convened in order to educate the students to be professional in carrying out their duties. This peer evaluation form is to be filled by members of each group to evaluate himself/herself and his/her teammates in five aspects, namely, cooperation; contributions in the form of ideas, money and time; creativity particularly on the generation of ideas and innovation of the groups; timeliness and involvement. Students must submit individually the completed peer evaluation form after the final report has been submitted by the group leaders. This evaluation form is submitted by each student directly to the lecturers without going through group leaders to ensure confidentiality of the matter.

CONCLUSION

Andrew Scott, the supporter of PBL in the field of law, believes that PBL can be used in a variety of disciplines as one of the methods for engaging students in real problems. For Scott, PBL begins with a problem and requires students to conduct the studies to select to analyse and to apply the information and theories in order

to solve a problem. In the legal field, there is a tradition of PBL through legal clinics where the students acquire the skills to apply the law to the actual problems.

According to Nor Asiah, PBL requires serious form of commitment from lecturers and students alike. In legal education, students are given the opportunity to actively explore issues, learn to resolve problems and work in teams. PBL is relevant for client based industry as it helps develop student's maturity, honesty and integrity which form the basic values in legal profession. In reality, PBL as the teaching and learning method in the field of law is not only practiced in UKM but also in the institutions of higher learning such as the International Islamic University as well as in several higher education institutions abroad such as the National University of Singapore, the University of Waikato in Hamilton, New Zealand and the University of East Anglia, United Kingdom. The FL UKM efforts are in line with the legal development in law education in the world. The selection of PBL Method for the contract law course, namely client consultation and contract game that apply the negotiation skills and the drafting of contracts are based on both the main activities and the world of advocacy for those who practice the law of contract. The PBL implementation in the law of contract in year 1 FL UKM has enabled the application of several generic skills, inter alia, professionalism skills, teamwork skills, communication skills and leadership skills.

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