Problem-Based Learning as a Teaching tool in Legal Education: An Islamic Perspective

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Abstract

Problem-based learning has been used as a teaching tool in various teaching and Malaysian learning institutions at various levels; primary, secondary and tertiary. Some institutions emphasise on producing well-rounded graduates who are professionally qualified as well as practicing Islamic values. Problem-based learning as promoted in law teaching involves study of real case problems with special emphasis on the elements of analytical and critical thinking skill, leadership skill, team work, time and file management, reflective journal and peer evaluation. Central in this practice are the elements of integrity, tolerance, trust, brotherhood as well as faith and God-fearing. Apart from describing self-experience and observation, the methods approached in this study is qualitative content analysis where the common features of PBL are analysed from Islamic perspective based on the Quranic verses, hadith, practice of the companions as well as the Muslim jurists. It is shown in this paper that these features are matters of substance in Islamic education system.

Keywords: Problem based learning, Islamic education, well-rounded graduates, reflective journal, teamwork, critical thinking and problem solving;

1. Introduction

The increasing demands and expectation on quality graduates coupled with various skills from law graduates have put law schools under considerable pressure to redesign their curricula and central aspects of their programs accordingly in order to achieve a right balance between theory and practice. Andrew Scott, the advocate of problem-based learning (PBL) in law, believes that PBL can be used in a number of disciplines as a way of engaging students in ‘real’ problems. PBL starts with a problem and requires the student to do research, analysis and the application of fact and theory to solve a particular legal problem. (Scott 2004). In law schools, the lectures focus on the conceptual understanding of the topic, relevant provisions, case-studies, application of the law, analysis and conclusion. Tutorials are designed to supplement the lectures where students and lecturers have the opportunity to discuss and apply the substantives and procedures on laws taught earlier. Within the limited time, the tutorial system should be designed to provide avenues for students to acquire soft and hard skills discuss and develop their argumentative and analytical skills. In tutorials, students may work independently or in a team to discuss underlying theory, legal provisions, applicable legal rules, and case law depending on the work pre-assigned by the lecturers or tutor. Lectures are delivered in face to face manner or ICT presentation may be used as a device. In tutorials, ‘problem’ and the application of laws in the problems are the common tools of learning, with PBL or others. The problem may represent a real case or hypothetical case and its subject matter is organised around several curriculum areas. The multi-disciplinary problem creates curiosity and initiates practice-oriented learning among the students. These types of problems represent a rich learning resource for the students who are challenged to tackle with the following tasks:

a. Know the problem
b. Understand the problem
c. Brainstorming
d. Creating key information lists
e. Identifying and extract issues – primary and secondary
f. Mind mapping by applying thinking skills
g. Searching the references
h. Applying all findings to the problem
i. Analysis
j. Resolving the problem.

There are several learning approaches and processes involved mainly a student-centred enquiry process in which students learn how to be responsible and independent learners and how to develop creative and analytical thinking skills. In PBL, students work within a small learning group of four to five students thus it helps developing interpersonal and group skills, cooperation, tolerance, discipline and enhance communication skills. Lecturers act as facilitators to guide the students and continuously

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monitor the students’ participation and involvement. In the process, students are required to apply and practise professional skills in addressing a problem, answers are to be made in writing and by oral presentations either in the form of client-counselling, in-house advise, mootings, power point presentations, debate, legal sketch and client counselling. The students need to submit reflective journal, peer assessment form as well as file for submission using a legal firm format. As a facilitator, lecturers guide the students by suggesting appropriate materials and put queries to their proposal while the students actively explore, learn and grow in teams. Students learn how to become independent learners and problem solvers. The learning progress they undergo in solving the problem is more important than the end result.

2. Islam and Problem-based Learning (PBL)

The above described process of learning is not alien in Islamic education. The first word that was revealed to Prophet Muhammad (p.b.u.h.) was “Read.” (Al A’laq: 1-5). ‘to read and memorize’ or ‘to read, think, analyse, select, understand and apply?’ Iqra’ is a core mode of acquiring knowledge and is generally believed that knowledge comes before faith (iman). The verse reads as follows:

- Read in the name of your Lord who created
- Created man from clots of blood
- Read, your Lord is the most Bounteous
- Who has taught the use of pen
- Has taught man what he did not know (Surah Al-‘Alaq : 1-5)

There are numerous instances in the Quran and the Sunnah of Prophet Muhammad (p.b.u.h.) which show that Islam requires Muslim to read with analytical thinking while reciting the Holy Book. A proper reading of al Qur an needs an understanding of the cause of revelation and thus apply it accordingly. Muslims are the leaders in his own cause in this world and also trustees and thus are accountable for his actions. Lead, cooperate, think and work as a team are what is expected throughout the PBL process and students become independent and not a spoon-fed student.

3. PBL organisational framework

In law school, student’s ability to resolve issues in problems is always used as a basis to assess their ability to become future lawyers. This ability is not only demonstrated in writing, more importantly, in oral presentation. Presentation is a key criterion in PBL. Leadership is crucial so that the organisational structure of the team works well. It follows Prophet Muhammad’s (p.b.u.h.) leadership paradigm.2 Within the framework of this leadership paradigm, there exists a pragmatic set of workable guidelines for Problem-based Learning students to which they are expected to abide.3

The framework of action is a combination of three elements: alignment, attainment and empowerment. Fusion of all three shall produce synergy. Alignment refers to tawheed; the vision of the greatness and oneness of God and the mission to commit to the message of God.4 In Problem-based learning the element of integrity, honesty and accountability are developed with the feeling God-consciousness not merely for the sake of assessment of trust of team members or facilitators. The spirit of God fearing and God-awareness should sustain in oneself and crucial in nation development. Attainment is reflected in the sense of ‘ibadah (worship) by doing good and forbidding evil. It involves total commitment, trust, honesty, support, mutual respect and courage to work in a team.5 Attainment is the esprit d’corps.6 PBL fosters the spirit of teamwork, with everyone contributing towards the objective. In Islam, everything should be done in this spirit of shared responsibility and togetherness (jama’ah), in all aspects. Empowerment is the trust conveyed to man as khalifah in this world (vicegerent).7 Prophet Muhammad (p.b.u.h.) stated that everyone is entrusted by God to be khalifah.

“Everyone of you is a shepherd and everyone is responsible for what he is shepherd of.” 8

In the context of PBL, empowerment is to let students to acquire skills and have them use their skills effectively. Synergy (fulah) is the outcome of PBL. The team’s energies are combined and produce a greater achievement than individual efforts.9

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3 Ibid.
4 Id., p. 3
5 Id.
6 Id., p. 23.
7 Id.
8 Sahih Al-Bukhari and Muslim.
9 Id., p. 24.
Islam promotes consultation in decision making and thus, every member must consult each other (shurah). It ensures equal participation and fairness in the problem-solving and decision-making process.\textsuperscript{10}

When Prophet Muhammad (p.b.u.h.) allowed his followers to be actively involved in problem-solving and decision-making, he ensured a heightened sense of shared commitment and responsibility for any action the group under his leadership had decided upon. It also created a high level of trust and provided them with the raison d’être for the continuing of an operation with speed and efficiency. Every member felt accountable for its ultimate success.\textsuperscript{11}

4. Reflective Journal Writing and PBL

Reflective writing in the form of journal writing has become a popular educational tool, especially in the field of Problem-based Learning. It is considered an excellent way for a facilitator to assess his/her students’ learning progress. There is a general agreement on what a student’s reflective journal should contain, namely:

- summary of learning activities and topics
- observations of learning experience, incidents or events
- analysis of incidents and developments
- progress reports of PBL presentations
- understanding and perception of the learning process

A proper reflective journal should contain matters which are beyond immediate reporting and should address the student’s personal observations.

In PBL, writing a reflective journal is a compulsory requirement and is part of the assessment criteria. Reflective journal writing trains the students to be self-disciplined, self-critical and objective as well as honest with them. The writing process includes various stages. Entries have to be made frequently and consistently so that the recorded events are still fresh in the students’ minds. It should reflect accuracy and a proper understanding of relevant detail to ensure a complete record of what has been taught and learned. Besides, the reflective journal should also contain implications for future learning to ensure that all processes have been addressed correctly, honestly and vividly.

Students may use reflective journal as a means of critical self-assessment which helps to assess their achievements to fulfil the learning objectives. Reflection warrants a special attention particularly if the result of objectives do not show improvement. Reflective journal mirrors the level of proficiency and knowledge of a student and help identify his/her areas of interest. In legal education, file management provide a good form of reflective journal where all updates must be consistently performed and checked. Reflective Journal may include that of:

- A diary: Throughout school and university students are mostly passive learners. Keeping a reflective journal is in essence similar to having dialogue with one’s self.
- A record of assessment: It is a compilation of the assessment for the subject or assignment that a student undertakes
- Thinking tool: It helps the student to develop an individual and effective way of thinking.
- Progress report: The entries reflect how much effort a student has put in to resolve a particular problem, and also show the duration of time the student needed.

5. Reflective Journal and Muhasabah (reflection) in Islam

God is All-Seeing, All-Hearing and All-Knowing.\textsuperscript{12} Being aware of that instills in students the right mentality to prepare them for their future responsibilities. PBL teaches the students to develop teamwork, working towards fulfilling the team’s target rather than for personal gain or interest, and fulfilling one’s responsibility and expectation from other members of the group.

It is reported that Prophet Muhammad (p.b.u.h.) said: “The hand of Allah is with the jama’ah (team or congregation). Then, whoever singles himself out (from the jama’ah) will be singled out for the Hell-fire.”\textsuperscript{13}

Journal writing trains the students to be sincere, share information and act in an open and transparent manner. By use of the record, a student is able to assess him/herself, learn from his/her mistakes and develop a better strategy for the future. This process of continuous self-assessment and reflection (muhasabah) is spiritual practice and expected from every conscious Muslim. It is reported that Prophet Muhammad (p.b.u.h.) said: ‘He whose two days are equal (in accomplishment) is a sure

\textsuperscript{10}Ibid.
\textsuperscript{11}Id., p. 25
\textsuperscript{12}Surah 49:2
\textsuperscript{13}Reported in Sunan al-Tarmidhi
loser.”\(^{14}\) This hadith stresses the vital importance of self-improvement, and there can be no improvement without prior reflection and assessment. A reflective journal should not only serve as an instructional tool but as an invitation to serious self-commitment. A Muslim or any other God-fearing individual is certain that his actions are witnessed and judged by God. The objectives, whether successfully put into practice or otherwise, carry a reward from God:

“Not a single dawn breaks out without two angels calling out: “Oh son of Adam, I am a new day and I witness your actions, so make the best out of me because I will never come back till the Day of Judgment.”\(^{15}\)

Furthermore, in Islam it is considered praiseworthy to share knowledge, advise others and trust others, as Prophet Muhammad (p.b.u.h.) meant when he said “Religion is sincere advice”. Reflective journal writing thus serves spiritual as well as practical purposes in learning and teaching.

Reflective journal writing helps the students to manage their time effectively. In the Qur’an the passage of time is again and again emphasized, and those who ignore the importance of time shall fail.\(^{16}\) The importance of reflective journal could also be seen in Surah al-Baqarah 282-283. Although these verses concentrate on the record of contracts and transactions, the benefits of a proper record no doubt encompass all matters dealing with more than two people.

PBL involves group work and record of all activities and events thus; encourage more efficiency and better outcomes. Reflective journal is not only an individual record of one’s own progress and assessments, but also something which requires group participation. The record keeps track of each participant’s roles and duties.

6. Teamwork in Islam

In a team, there are two main elements that become a matter of substance in Islam. Firstly, a team which is normally referred as ‘jamaah’ (congregation) and leadership. Working as a team and choose a leader to lead the team is compulsory in Islam and it is an act of submission (“ibadah) to God.\(^ {17}\) The term ‘teamwork’ is defined as “the ability to work together toward a common goal” and “to direct individual accomplishment towards organizational or institutional objectives”.\(^ {18}\) A team comprises of people working together, trusting one another, complementing each other’s strengths and compensating each other’s limitations.\(^ {19}\) Groups are collections of individuals that are gathered together to work to achieve certain common objectives. The reference to the term ‘team’ with this connotation can be found in numerous verses of the Holy Quran. For instance in Surah al-Imran (5): 104:

“Let there arise among you a group that invite others to good work, enjoining what is right and forbidding what is wrong. They shall indeed be granted success.”

“Faithful believer are to each other as the bricks of a wall, supporting and reinforcing wach other. So saying, the Prophet (p.b.u.h.) clasped his hands by interlocking his fingers. (Vol 1, Sahih Al Bukhari)\(^ {20}\) According to Islam the best way to succeed and lead any institution towards excellence is to work in ‘jama’ah’ (as a team). Surah Al-Imran states to this effect:

“And hold fast, all of you together, to the rope of Allah, and be not divided among yourselves, and remember Allah's favor on you, for you were enemies one to another but He joined your hearts together, so that, by His Grace, you became brethren (in faith); and you were on the brink of a pit of fire, and He saved you from it. Thus Allah (swt) makes His signs clear to you, that you may be guided”.\(^ {21}\)

Prophet Muhammad (p.b.u.h.) is reported to have said: “The hand of Allah is with the community (jama’ah)”. Abu Hurayrah (r.a.) reported: “I have not seen anyone to be more diligent in consulting the companions than the Prophet (p.b.u.h.) himself”. In another hadith, the Prophet (p.b.u.h.) is reported to have told Abu Bakr and ‘Umar (r.a) that if they both agreed upon a council, he would not oppose it. In fact, on a number of occasions, the Prophet (p.b.u.h.) consulted his companions on private and public

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14 Sunan al-Daylami
15 Al-Ma’thur of the Prophet (p.b.u.h.)
16 Sunan al-Daylami
17 Abu Daud 2:827, Chapter 1089, Hadith No. 2922.
19 Ismail Noor, Prophet Muhammad’s Leadership: The Paragon of Excellence Altruistic Management, p. 51.
21 Al-Imran, 3:103.
affairs, and at times he gave preference to their opinions over his own views. All members of a team must cooperate in pursuance of virtue and beneficence, and not of hostility and transgression. “Cooperate with one another in the pursuit of virtue and beneficence, but cooperate not in fostering hostility and transgression.” As a Muslim, to act upon the teaching of the Prophet (p.b.u.h.) is part of an act of submission to God. Teamwork is developed through a sound and healthy relationship based on covenantal understanding through sincere feelings, trust in one another, intimacy or brotherhood as required by Islam. In Islam there is a golden rule to the effect: "No one of you is a believer until he desires for his brother that which he desires for himself." The key to success is sincerity which can only be nurtured if one is sincere to oneself and God. It is a very tall order to develop sincerity in a spiritual vacuum. Love for Allah (swt) promotes the development of good intentions and practices in human behavior. Without the spiritual dimension, it is nearly impossible to build up and retain a high level of team spirit in an organization or institution.

Every member of the team is accountable for his/her assigned task, and every member of the team is responsible for his/her own performance level. “Every person is accountable for what he earns, for no bearer of a burden bears the burden of another.” Prophet Muhammad (p.b.u.h.) is reported to have said in this respect “I am accountable for my actions and you are for yours.”

In an Islamic institution, PBL should fall within its mission and philosophy, knowledge towards propagating the spirit of faith and the recognition of Allah (swt) which represents the apex in the hierarchy of knowledge. Knowledge is understood as a form of divine trust (amanah) to mankind, and hence mankind must utilize knowledge according to His will. Seeking and propagating knowledge is regarded an act of worship. All Islamic institutions aim at producing a distinctive class of intellectuals, professionals and scholars by integrating the qualities of faith (iman), knowledge (‘ilm), and good character (akhlaaq) to serve as agents of a comprehensive and sustainable progress and development in the Muslim world. PBL complements this aim by instilling a heightened sense of commitment for life-long learning and social responsibility among the staff and students.

The main obstacle to the full implementation of PBL in legal institution is to challenge the assumption that law has always been taught using a problem-based methodology. After all, law is about legal problems, real or hypothetical. Although PBL is considered a more creative and effective way of teaching, the argument against it is that law lecturers and students are already overloaded following the standard curriculum. PBL may add to the existing workload but the benefit the students gain by being exposed to an alternative method of learning is worth the extra energy and time invested into it.

7. Conclusion

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. PBL method is not new in Islamic education in general and law teaching and training in particular. Law teaching and learning focus on certain processes which emphasise on ethics and values and provide a means of critical self-assessment of individual capacities and performance levels for each member of a working team. In addition to grooming professional, PBL plays essential role in raising the level of commitment to religious and moral values.

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22 Surah Al-Maidah (5) : 2.
23 Surah al-An’ am (6) : 164.
24 Sahih al-Bukhari and Muslim.


