

Vol. 13 (1), Enero-Abril 2015, 361-375

ISSN: 1887-4592

Fecha de recepción: 11-09-2014

Fecha de aceptación: 10-02-2015

Problem-based learning and legal education – a case study in integrated experiential study¹.

Aprendizaje basado en problemas y educación jurídica – un estudio de caso en aprendizaje experiencial integrado¹.

Richard Grimes

University of York (United Kingdom)

Richard Grimes

University of York (United Kingdom)

Resumen

This work describes the legal education system as it currently exists in England and Wales (the rest of the UK has a somewhat different structure) and highlights perceived shortcomings in that system. It then goes on to address these and to suggest how learning and teaching can be improved by paying attention to form as well as content, particularly from the perspective of how legal education is delivered. The paper focuses on one particular approach to legal education, termed: problem-based learning (PBL). This forms the key means for study at

Abstract

Este trabajo describe el Sistema de Estudios de Derecho tal y como es actualmente en Inglaterra y Gales (el resto del reino Unido tiene una estructura un tanto diferente) y subraya algunas fallas percibidas en este sistema. Por ello se trata de indicar dichas fallas y sugerir como el aprendizaje y la enseñanza pueden ser mejorados prestando atención a la forma así como al contenido, particularmente desde la perspectiva de cómo se imparten los estudios de Derecho. El trabajo se centra en un acercamiento particular a los estudios de Derecho, llamado:

¹ Este texto del Prof. Grimes debería haber aparecido en el monográfico sobre Educación Jurídica (REDU, Revista de Docencia Universitaria, vol. 12-3). Por un error material, quedó fuera del mismo. Pedimos sinceras disculpas al profesor Grimes.

This text of Prof. Grimes should have appeared in the monograph on Legal Education (REDU, Revista de Docencia Universitaria, vol. 12-3). By an unfortunate mistake, it was lost. We deeply apologize to Professor Grimes.

one of the UK's leading law schools. The rationale for and concept of PBL is explained and extensive reference is made to a wealth of source materials on the nature and effectiveness of such a learning medium. The implications for PBL in the context of experiential learning are also explored including the use of PBL in live-client clinics. The chapter concludes with the suggestion that more interactive or 'hands-on' methods of study will increasingly feature in legal education across the common and civil law worlds.

Aprendizaje Basado en Problemas (ABP). Este es el enfoque clave para el estudio en una de las escuelas de Derecho líder del Reino Unido. La razón de ser y el concepto del ABP es explicado y se hacen extensas referencias a la riqueza de las fuentes de recursos en la naturaleza y eficacia de dicho medio de aprendizaje. Las implicaciones del ABP en el contexto del aprendizaje experimental son también exploradas incluyendo el uso de ABP con casos reales. El capítulo concluye con la sugerencia de que métodos de estudios más interactivos o de "manos a la obra" aparecerán de manera creciente en los Estudios de Derecho tanto en el Derecho anglosajón como en el Derecho Romano.

Palabras clave: Legal education; problem-based learning; experiential learning; clinical legal education.

Keywords: Estudios de derecho; Aprendizaje Basado en Problemas; aprendizaje experimental.

Introduction

I have been asked to contribute to this volume by describing and reflecting upon a particular approach to legal education – problem-based learning – as it is implemented in one law school, where it is used as the foundation for the study of all compulsory (and most optional) subjects.

Problem-based learning (PBL) can be found in several disciplines in higher and further education, principally in health care and medicine but rarely, at present, adopted by legal educators. Following a model already established at the University of York's medical school the York Law School (YLS) was founded on, and its core programmes designed around, a PBL model. No other law school in the UK uses PBL in a fully integrated way across and within the curriculum (although some do use this approach on individual modules or as part of a programme). Further afield the law schools using PBL are also few and far between. How law students are educated at YLS is therefore unusual and relatively unique, both nationally and globally.

As the purpose of this chapter is primarily to give the reader a picture of how PBL works at one institution I intend to focus on the detail of design and operation with a section following on that looks at how the academic and administrative team have had to keep the curriculum under regular review. As will be seen this has led to considerable and on-going fine-tuning.

What I do not intend to do is examine, other than by implication and in general terms, the theory behind PBL. The reason for this is twofold. First, much has been written elsewhere on the topic and the bibliography at the end of this chapter sets out relevant sources. Secondly, I have been asked to make this contribution as practical as possible – giving the reader the ‘basics’ on PBL in terms of how it can be implemented without diverting attention from this with copious use of extraneous material. Footnotes and in-text references will therefore be kept to a minimum.

Finally, by way of introduction, can I extend an invitation to any colleague – academic, practitioner, administrator or regulator, to visit YLS? Many do and we are pleased to have you come and see what we do. We are confident in the product and keen to show the impact it can have in terms of supporting effective and relevant legal education.

The context

As this book is likely to be read by those from jurisdictions other than my own (specifically England and Wales) I will take a moment here to give a little by way of background against which PBL at YLS works. I will then turn to the method itself.

Legal education has, ever since it became a subject of study (as opposed to simply an apprenticeship where becoming a lawyer was entirely restricted to learning ‘on the job’) struggled with the purpose it was meant to serve. Is it a liberal art, humanities or social science subject where students are expected to become critical thinkers engaged as much (or more) with jurisprudential issues as with the letter of the law itself? On the other hand are we, in society and in education focused, in the main, on producing technically competent, practically skilled and ethically aware individuals who can go on to become legal practitioners, judges and other relevant professionals? Can the study of legal education effectively serve both agendas?

In England and Wales, for better or worse, (I suggest the latter) we currently divide legal education into three stages – the so-called ‘academic’ (normally a 3- year full-time degree (or equivalent on a part-time basis) covering foundation subjects and a range of electives or a shorter conversion course for non-law graduates); the ‘vocational’ (a year-long full-time course looking at the application of knowledge, skills and values (but assuming much of the ‘knowledge’ component)); and, a period of ‘apprenticeship’ (currently a 2-year training contract for a solicitor and a 1-year pupillage for a barrister).

In order to meet professional regulator requirements those graduating in law or doing the conversion course must presently cover what are known as the 7 foundation subjects¹. Only those with what is termed a ‘qualifying law degree’ or approved conversion course can move onto the vocational stage. This situation has been in place for many years although is, at the moment, under review². Unlike some jurisdictions, for example the USA and many continental European countries there is no Bar Examination regulating admission to the practising profession.

Law schools in England and Wales therefore are caught by a requirement that

¹ Contract, Tort, Crime, Constitutional, EU, Land and Equity & Trusts

² The Legal Education Training Review, *Setting standards: the future of legal services education and training regulation in England and Wales*, 2013, available at: : <http://letr.org.uk/wp-content/uploads/LETR-Report.pdf> accessed 12 June 2014.

the content of much of their programme must be directed at legal basics to satisfy the professional regulatory bodies (one each for solicitors and barristers). The imposed and perpetuated divide between the academic and vocational also acts as a barrier to seeing legal education as a whole – with knowledge playing a lesser role at the sharp end of professional training (that is in the lead-up to admission the bar) and skills and ethics largely being ignored at the earlier stages. How can legal education be said to be sufficient or adequate if these key components are not integrated so that they make sense in context?

All that said, since UK universities have been the provider of the initial stage of legal education, and in common with many other countries of civil and common law origin, the law curriculum, at degree level, is heavily content-driven and delivered primarily through a lecture and (in some instances) seminar or tutorial- structured format.

PBL questions both the value of this academic and vocational divide and the concept of top-down education where the academic, as expert, instructs the student who, in the main, sits passively like an empty vessels waiting to be filled at the dictate of the teacher and institution. The philosophy of PBL as implemented at YLS also calls for law to be taught in a holistic way where rules, competencies, attributes and attitudes are seen as interlinked. This is done regardless of career destination as both would-be lawyers and those with other aspirations will acquire an understanding of legal principles couples with a set of skills and values that are transferable in nature. Issues around employability beyond setting students on the path to become practising lawyers are thereby addressed³.

The method

So what is PBL?

As suggested above PBL has its origins in medical-related study. Working on given scenarios (fictitious or real but anonymised and designed by the educational provider) students, in small groups (typically 6-12 in each), deconstruct and analyse 'problems'. In the medical world this often involves a patient presenting with certain symptoms. The students then work on the perceived issues involved in this and, in a structured way, identify what they need to know and how they will find this out. This may include diagnosis, treatment and a range of professional practice considerations. In most instances the aim is not to 'solve' the problem as such (although that may be a spin-off requirement as explained below) but rather to recognise what they need to understand to appreciate the implications of what the 'problem' involves. It is problem-analysis rather than problem-solving.

If the 'patient' is replaced with the 'client' the legal context becomes perhaps more recognisable.

The usual setting for PBL is a small group. At YLS this is normally a collection of 12 students from the same year of study. There may well (as at YLS) be a number of groups, each studying the same problem at the same time.

³ In the UK upwards of 50% of law graduates do not end up as barristers or solicitors.

There are various models for PBL. The one adapted by and used at YLS has 10 'steps' or 'stages'⁴. These are:

1. **Read and clarify the problem** – the chair (a student appointed by the group (known as a student law firm – SLF) and a role that is rotated around the group for PBL sessions) reads out the problem (or ask others to read it) and then asks if any terms or words need to be explained or researched. If they do they can either be researched there and then or left until later. Often someone in the group suggest a definition from their prior knowledge. This will inevitably lead to it being checked in research later but makes effective use of the resources of the group and builds on the concept of collaborative learning.
2. **Identify parties and interests** – the SLF identifies all of the relevant parties in the scenario and what their respective interests are. This broadens out the discussion beyond simply the needs of the 'client' and requires the students to think through law in its full operational context. For example the interests of the client can be contrasted with those of a possible defendant. The role of the police, the courts, parliamentarians, non-governmental organisations (NGOs) and the wider public may all be relevant practically, legally, socially and normatively.
3. **Set out chronology of events** – the sequence of events in the scenario is then recorded to focus minds on the link between fact and law and to ensure that no significant development is missed. This is a very important part of the PBL process as it reinforces not only the evidential link but that the application of the law is determined by what has happened.
4. **Mind-mapping possible 'issues'** – the SLF looks in the broadest sense at what the scenario might encompass and to consider law in a non-compartmentalised way. ANY suggestions are recorded. They can be ignored later if deemed irrelevant⁵. One of the distinctive features of PBL at York is the multi-subject focus of the problems – a given scenario may well encompass several legal issues and areas. This is explained more fully below.
5. **Identify issues and give problem a name**⁶ (should summarise the nature of problem) – this is part initial analysis and part fun – a break from the demands of the process and something the students enjoy – often silly or humorous names are proffered. It is also a means for recalling the problem when similar issues are discussed in the future⁷.
6. **Organise themes** – returning to the analysis this is the stage where the SLF has to manipulate all of the ideas produced by the mind-mapping activity to produce research themes. This can be done in a number of ways and the task is made easier and more vivid if it is done on an electronic *Smartboard* where the issues identified can be physically dragged around the board to group themes with

⁴ The YLS PBL Guide refers to seven stages but I have expanded those to ten here to make the process clear for the uninitiated.

⁵ The mind-mapping, or to use a commonly known word (but one that some object to in terms of possible insensitivity to disabilities) 'brainstorming,' stage is of critical importance.

⁶ This stage can occur before or after the mind-mapping. Personal preference is for the latter as a break from the rigours involved. At YLS however it is often used before following on from stage 3.

⁷ At YLS doctrinal issues are considered on future occasions in PBL and plenary sessions under what is termed internally as the 'spiral curriculum' – visiting and revisiting concepts and principles at different points and in differing depths as the entire degree programme progresses – that is within and between the years of study.

commonalities. Using a colour scheme for each themed item can also help. This task can be done through more conventional mediums such as a flip chart or white/black board.

7. **Define learning outcomes from themes** – once the themes have been identified and are clearly stated the learning outcomes should follow – one to a theme or in the case of broadly expressed themes more than one. Typically 4 – 5 outcomes may be expected. At York tutors are always present to ensure that the expected learning outcomes⁸ of the curriculum are identified by the SLF and, through Socratic discourse, students can, if necessary, be guided to reach the desired results. In practice, as groups become more comfortable with the PBL process, the need for tutor direction diminishes
8. **Plan, agree and carry out research** – at the end of the initial PBL session all SLF members should document the learning outcomes and consequential research tasks and, under the York model, in the 4-5 days before the next session each member must carry out all of the necessary research.
9. **Share results** – this is a two-stage process. The SLF members report back on their research findings at an interim meeting and then on those and any further findings at the end of cycle meeting of the SLF, with their firms and the designated tutor (at YLS this is one week after the initial PBL session). These ‘report backs’ are directed by the chair of that particular meeting and should be structured so that all firm members make a contribution. Individuals do not know which research task they will be called upon to report on and therefore need to cover all the relevant research including citing appropriate authorities.
10. **Check to see if learning outcomes are met** – SLF members, guided by their designated tutor, will need to go through each outcome to ensure that the ‘answers’ given are appropriate. As iterated above this is NOT an exercise in problem-solving (although variants of PBL may include an element of this as in the YLS Clinic – see under **Extensions to the model**) but is a challenge for students to identify the range of legal and related issues captured in the learning outcomes.

At YLS, typically a new problem is handed out by the tutor halfway through the final meeting for the initial problem (that is at the end of the week’s cycle and when the SLF has reported their findings in the problem they have been considering in the previous week) and the PBL process starts all over again. At York a reflection week is built into each term to give the students (and staff!) a break from the rigours of on-going PBL and to give them the chance to meet with their Senior Partners⁹ to discuss personal and SLF progress. At any one moment in time, a SLF may have 2-3 on-going problems to

⁸ A learning outcome, as used in this context, means the specific objective that students should achieve after completion of the task in hand. There may be more than one outcome expected for a particular session. Learning outcomes are not to be confused with module or programme aims which are likely to be much more generic – for example the aim of a course in the law of contract may be to understand the rules governing the formation of legally binding agreements, how those agreements may be brought to an end and what remedies may be available in the event of breach of contract. The learning outcomes in PBL sessions are the specific goals of that session – what the student needs to know in relation to the problem presented – for example how damages are assessed or what effect misrepresentation may have in terms of contractual or tortious liability.

⁹ Academic members of staff assigned to each SLF.

consider. Across a year of study the students will consider over 30 problems. At the end of that year or entire programme the students will have covered the entire curriculum requirement for that period.

The basic approach to PBL outlined above has a number of variants. The extremes are represented by what can be broadly described as 'open' and 'guided' discovery models. Simply put the former allows students a largely free hand in determining their own outcomes whereas the latter expects students to reach pre-determined outcomes albeit under their own initiative with some tutor-guidance where necessary. YLS follows the guided discovery method.

More on the YLS model¹⁰

As indicated at the start of this chapter all of the core subjects at YLS are studied through PBL. Problems are designed by a dedicated team of academic staff and are often in the form of a client request, a newspaper article or a set task (for example to respond to a government consultation or to present a debate in parliament). When given the problem the SLF must follow the PBL 'rules' outlined above. Tutors ensure that this is done but again the need for their intervention decreases as SLFs become accustomed to the study regime.

YLS accepted its first students in October 2008 following a year dedicated to designing the programme. The intake that year was small (60) and has grown incrementally, year on year. The current and anticipated annual cohort is now around 144 (to allow for 12 groups of 12 students) and the law school is operating at full intake capacity save for an increase in the projected intake of postgraduate students.¹¹

From Day 1 in Year 1 each student at YLS is allocated to a SLF and remains with that firm for the entire study year. At the start of the following academic year, students are assigned to a new firm. They work in a SLF for each of their 3 years' of undergraduate study¹². Each SLF is asked to discuss and formulate rules for their SLF (the rationale and analogy used is the need for laws in wider society) to govern how the group will operate, what it will do to ensure learning progression and how it will handle challenges and conflict.

PBL is central to learning and the SLF is the vehicle through which that takes place. As mentioned above, the learning environment, both physical and philosophical, is significant in terms of PBL in general and learning at YLS in particular.

So far as the geography is concerned, YLS moved into purpose-built premises in September 2010. The focal point for learning is the PBL area which consists of a large open space off which are satellite 'offices' equipped with mini libraries (of key texts), electronic *Smartboards* and associated e-technology and boardroom furniture, including a large oval table. Each office has 3 SLF 'tenants' – one from each year of

¹⁰ Some of what appears below is based on a chapter entitled: Clinical legal education and problem-based learning: an integrated approach to study - fit for purpose? in: Jose Garcia Anon (ed.), *Transformations in Legal Teaching and Learning: Proceedings of the Fifth National Spanish Conference on Legal Education*, Unitat d'innovació educativa, Tirant lo Blanch, Valencia, 2013, 34, 32pp.

¹¹ A LL.M in the theory and practice of clinic has been approved by the University and begins in October 2014. For details see: www.york.ac.uk/law, accessed on 8 July 2014.

¹² Postgraduate students on the current and planned taught Masters' programmes are similarly assigned to a SLF and use the PBL method.

study. They have assigned times when they have exclusive use of the room and for the remainder of the time the space is bookable or otherwise self-managed (by the SLFs and their individual members). The open area is free for students to use as they wish and it is in practice taken up for informal study and group work as well as a degree of socialising – an important dimension of making the SLF and PBL work effectively.

The philosophical learning environment is equally carefully formulated. A set of key values and principles drive and inform learning and teaching. Although YLS does not have a ‘written constitution’ which captures all of these ideas, a philosophy has emerged organically through practice. Students are equally important in this process and the consultations that take place to emphasise and reinforce these values and principles are significant in securing the necessary ‘buy-in’ from the learners to make the whole process work effectively. The pedagogic philosophy is based on the following premises:

YLS as a learning community – this is the starting point – a community in which staff and students are active participants. Central to this is that there is a *shared and sufficient commitment to learning* to meaningfully describe ourselves as a community. This is reinforced at all stages from recruitment to graduation. *Departmental citizenship* – those responsible for the initial design of the law programme at YLS considered that it was useful and healthy to be able to offer an organisational model of the department other than one framed in terms of the student as consumer and developed a concept of *departmental citizenship*. YLS uses language of citizenship is used in dealings with students, in the hope that they will feel encouraged to *participate* in the life of the department, and will exercise *rights* and *responsibilities* in a manner consistent with such a role. A practical manifestation of citizenship is the ‘Town Hall Meeting’, in which staff report to and consult with students on developments in the department, offering the opportunity for discussion and for students to raise concerns.

Trust and respect - YLS aims to foster *trust* and *respect* with and between staff and students with the latter (if not the former!) seen as capable adult learners who will be motivated to learn for a variety of reasons; and who are likely to learn successfully given reasonable opportunities, reasonable incentives, reasonable information and reasonable support. The role of staff is to provide a context in which students will be disposed to avail themselves of these opportunities.

Collaboration as a ‘good’ - students are explicitly encouraged and are expected to collaborate intensively during their studies, and, at undergraduate level, attitude towards and experience of collaboration is an issue we explore in admissions interviews¹³. Staff attempt to model good collaboration for students by working in teams in a range of contexts in the curriculum – designing materials – and facilitating face to face learning activities. Opportunities for appropriate collaboration are built into student assessment, in order to further incentivise it. For example, students are given examination scenarios 48 hours before being examined in ‘closed’ conditions and are encouraged to ‘PBL’ the examination topic(s) in their SLF’s. They, of course, do not know the examinations questions but do know the subject matter. No one ever asks: ‘do I need to know this? Is it on the exam paper?’

¹³ All prospective students (that is who meet the academic admissions criteria – predicted ‘As’ in all subjects taken for school entrants - and who wish to attend) are interviewed. No student is admitted onto the programme without being interviewed. The interviews are face to face other than for some overseas students who are interviewed by telephone or Skype This gargantuan task involves all academics, adjunct staff and over 500 students a year.

There is also staff presence on a rota-basis in the PBL area in addition to input in PBL and other teaching and learning sessions.

Reflection and a learning - YLS sees itself as a learning organisation. Critical reflection – collective and individual - on values, principles, processes and performance is seen as normal. As is examined below, this leads to regular fine-tuning. Staff and students discuss change and development in a collaborative manner and are colleagues in the project of driving YLS forward.

Respectful informality - YLS also attempts to foster a culture of *respectful informality*, in which the importance of learning and the value of all members of the YLS community are given serious recognition, but in which unnecessary hierarchical relationships are minimised where possible.

Of course many law schools adopt and follow some, if not all, of these principles. It should also be acknowledged that YLS is fortunate indeed to have customised teaching facilities, a relatively new law school where practices are not entrenched and inflexible and a situation where all staff have been appointed knowing that a commitment to PBL and this overall philosophical approach is the norm. The University of York in general and YLS in particular also has a very able student body. That said the atmosphere at YLS feels very different from other law schools. Staff, students and visitors readily pick up on this.

In terms of the learning environment one other issue needs to be raised. PBL is central to all learning across both the foundation subjects and the options. It also permeates the taught postgraduate courses. Whilst there are occasions when large group sessions will be held – for example there are plenary sessions once a week in the foundation subjects to raise issues pertinent to topics covered in the current or past PBL cycle – a lecture style is avoided. The plenary sessions (still sometimes called ‘lectures’ by students – old habits die hard!) are more in the Socratic style and are always linked back to the PBL coverage. They may also cover important ancillary issues that give the study of relevant legal principles context. For example, if the relevant PBL cycle has looked at issues of civil and criminal liability following a road traffic accident, the plenary session may consider the concept of insurance and ‘compensation culture’ as a basis for a critical understanding of law in practice.

Although the plenary sessions are subject specific, the PBL sessions are normally not limited to one legal subject area. Depending on the exact learning outcomes expected one factual scenario may lead to a range of legal considerations. In the example of the road traffic accident given above, this may include absolute offences and the relevance of negligence and intent in criminal law. It may also centre on tortious liability and the measure of damages. It could also cover public law, EU considerations, costs and the public funding of legal services. The number and range of outcomes is a matter for curriculum design but the point is this – students are asked to think about how the law relates to a given scenario and the parties involved or implicated – not just looking into one or more legal pigeonholes.

To give another perspective the students spend around 10 hours a week in formally allocated PBL work. They attend up to 5 hours of plenary sessions. They are expected individually and collectively to focus the remainder of their time on informal individual and collective self-directed study. They have access to academic members of staff at any time when it is mutually convenient.

Extensions to the model

As indicated above, the learning methodology at YLS centres on PBL. It is therefore unsurprising to note that this basic form of student-centred and driven study should permeate the non-core aspects of the curriculum. Nowhere is this more the case than in the Law Clinic elective. In common with many law schools¹⁴, students at YLS can become involved in pro bono work and in this instance can gain academic credit for that work too. Much has been written elsewhere on the benefits and challenges associated with clinical legal education (CLE) and in particular the ‘win-win’ situation for all participants – clients, students, educational institutions, prospective employers and the wider community. Suffice it to say for present purposes that PBL adds an overtly doctrinal, critical, interesting, and I suggest valuable, dimension to clinical work. All Clinic students at YLS have to ‘PBL’ the problem presented by real clients before going on to advise the client in writing.

The ‘doctrinal’ relates to the need, in the PBL process, to identify legal principles as they affect all parties in a given scenario. This goes beyond seeing the issues as just client-focused or one dimensional.

The ‘critical’ is linked with this overarching view of problem scenarios – the need to recognise all those who might be affected and to muse on the workings and impact of the law including the role of social and economic policy and the desirability of law reform.

The ‘interesting’ component, albeit based largely on personal and anecdotal reflection, is in the time taken by students to progress from a real-client interview to producing an advice letter that is professionally acceptable, for despatch to the client. Students with PBL experience appear to be able to progress the case to the point of advice more quickly and more accurately than students without such an exposure to PBL. Admittedly the groups used for comparison are small but at the YLS Clinic in 2010/11 (21 students in the Clinic cohort), 2011/12 (50 students) 2012/13 (72 students) and 2013/14 (74 students) the number of editions of draft letters produced for each client by students who were familiar with PBL was around half the number produced by students in other clinics with which I am familiar. At YLS the students seldom need more than 2 or 3 attempts before the letter is fit to be used. At clinics without a PBL framework, in my experience, the number of drafts is normally considerably more even when the level of study of individual students is taken into account¹⁵.

I suggest that the ‘valuable’ aspect of PBL and Clinic is in the overview students appear to get when seeing the client’s problem from the perspective of all interested parties. One requirement in the 10-stage PBL process set out above is the need to identify all those who have an interest in the outcome of a case and to specify what that interest is. For example, in a relatively simple consumer dispute – say defective goods – identifying the potential claimant and defendant and their respective interests will focus the students’ minds on the relative strengths and weaknesses of the case from both sides and help the students to formulate a realistic and sustainable case theory.

¹⁴ For a description of clinical and pro bono initiatives in UK law schools see: *LawWorks Pro Bono law school survey*, The Law Society, 2011. Initial findings from the 2014 survey (yet to be published) show a further increase in law school clinical provision with over 70% of all UK law schools now engaged in real-client experiential learning. At YLS the Clinic elective carries 20 credits (an undergraduate degree at York is typically 360 credits spread over 3 years) and is assessed by learning portfolio and viva.

¹⁵ The number of draft letters produced by students without PBL exposure is typically 4 – 6. The record in clinics I have been involved with is 11!

Going beyond the immediate parties may reveal other interests – for example the role of the local authority or other regulatory body. This may be a trading standards department, the courts or tribunals or a relevant ombudsman service. Not only do the students then see the law and the legal framework but they are able to appreciate wider issues, for example, of dispute resolution processes, public policy concerns and trade or professional accountability issues. It is truly law in context.

At YLS, the students are, of course, well-used to PBL. By the time they reach the Clinic they ‘PBL’ problems as a matter of course. That is one of the many advantages and the admitted luxury of following such an integrated learning methodology.

Fine-tuning the model

As suggested above the PBL regime the student at YLS are expected to follow inevitably affects (by both habit and design) staff perceptions and there is a by now well-established expectation of continuing reflective practice amongst the whole of the learning community.

Space does not permit detail here but recent innovations now include:

- a period of PBL observation before direct participation (for both staff and students)
- a set of PBL digital recordings for general information and for induction purposes including a *YouTube* sample, a longer snapshot and a full version replicating a complete PBL session
- specific focus during each PBL cycle on research skills especially for those in Years 1 and 2
- a requirement to actively reflect during and at the end of each PBL session particularly if a student has not completed his or her research
- discussions on feedback mechanisms to extract the maximum from SLF members’ reports on research findings
- training for tutors, scribes and chairs on their respective roles including how to facilitate effective feedback
- specific induction on how to frame and prioritise learning outcomes
- introducing additional tasks into PBL sessions to reflect the learning needs of each SLF beyond consideration of the assigned problem
- recognition of the differences in the learning needs of Years 1,2 and 3 students and clarifying expected learning outcomes to reflect those differences
- dealing with falling attendance – only a problem very recently and at ‘pinch-points’ of the programme such as when assessments elsewhere are due in
- reviewing feedback regimes on student work – including the timing, format and extent. This has resulted in less reliance on reflective portfolios by module and the giving of what has been termed ‘premium’ feedback where students receive very detailed responses to their submissions at a stage in the programme where they are able to use it to improve future performance. The introduction of a viva in the Clinic elective has also been a significant change in assessment procedures.

The future

So what does all this mean? Both nationally (in the UK) and internationally there is increasing recognition of how educational 'best practice' might be translated into a legal education context. Whilst some countries have followed a clinical line for many years others are beginning to explore these possibilities. Experiential methods are now to be found across the world including in those places that have previously resisted such a major shift in pedagogic practice.

YLS perhaps represents an extreme version. It works for us but may be a step too far for some. What is irresistible is the movement towards a more rational alignment of what we teach and learn, how that is achieved and why such changes are necessary. Ask any student, employer, university recruiter or member of the public. All have a direct (if different) interest in how we educate our lawyers.

One final comment – all change brings with it a degree of uncertainty and possible threat. At a French university steps were taken in 2012 to introduce clinical legal education. This development met with considerable scorn amongst much of the academic establishment. One particularly critical commentary described experiential learning as fit for producing chefs rather than intellectuals (a somewhat ironic situation given the traditional prestige associated with the French kitchen!). In a fitting and pertinent response the Dean of the law school concerned wrote a book entitled *La cuisine du Droit*. It makes for interesting reading¹⁶.

Bibliography

The list of materials set out below is included to alert colleagues to the wealth of sources that discuss experiential learning in general and PBL in particular. It is not an exhaustive compilation but may help those intending to study the theory and practice of student-centred learning more closely.

- Barrows, (1986) *A Taxonomy of Problem-based Learning Methods*, Medical Education, 20, 481
- Barrows, (2000) Foreword in Evenson and Hmelo (eds.) *Problem-based learning: A research perspective on learning interactions*, Mahwah: Lawrence Erlbaum, vii
- Barrows and Tamblyn (1980), *Problem-based learning: An approach to medical education*, New York: Springer
- Block and Moore, (1994) *Project evaluation* in Tosteson, Adelstein and Carver, (eds.) *New Pathways to medical education*, Cambridge MA: Harvard University Press
- Cruickshank, (1996) *Problem-based learning in legal education*, in Webb and Maughan, (eds.), *Teaching lawyers' skills*, London: Butterworths
- Delgnan (2009) Enquiry-based learning: Perspectives on practice, *Teaching in Higher Education* 14 (1), 13
- Dolmans and Schmidt, (2006) *What Do We Know About Cognitive and Motivational Effects of Small Group Tutorials in Problem-based Learning?* *Advances in Health Sciences Education* 11, 321

¹⁶ Jamin C. (2012), *La cuisine du Droit*, Paris:LDGJ.

- Engel, (1991) *Not Just a Method but a Way of Learning*, in Boud and Feletti, (eds.), The challenge of problem-based learning, London: Kogan Page, 22
- Hmelo-Silver (2004), Problem-based learning: What and how do students learn? *Educational Psychology Review*, 16, 235
- Hmelo-Silver and Barrows, (2006) Goals and strategies of a problem-based learning facilitator, *Interdisciplinary Journal of Problem-based Learning*, 1, 21
- Knowles (1980), *The Modern Practice of Adult Education*. Cambridge/Prentice Hall
- Macckinnon, (2006) Problem-based Learning and New Zealand Legal Education, Web Journal of Current Legal Issues, 3 Web J CL, 1
- Martin, (2003) Using a modified problem-based learning approach to motivate and enhance student learning of taxation law, *The Law Teacher* 37(1), 55
- Maudsley, Do we all mean the same thing by 'problem-based learning'? A review of the concepts and formulation of the ground rules, *Academic Medicine*, 74 (2), 178
- Maughan, (1996) *Problem-Solving Through Reflective Practice: The Oxygen of Expertise or Just Swamp Gas?* 2 Web JCLI, available at: <http://webjcli.ncl.ac.uk/1996/issue2/maughan2.html>
- Moskovitz, (1992) Beyond the case method: it's time to teach with problems, *Journal of Legal Education*, 42, 241
- Moust, (1998) The problem-based education approach at the Maastricht Law School, *The Law Teacher*, 32 (1), 5
- Nathanson, (1998) *Designing problems to teach legal problem solving*, California Western Law Review 34, 325
- Payne, (2003) *Peer learning at university: trusting the students*, *The Law Teacher* 37(2), 143
- Pederson, (2011) Advancing Young Adolescents' Hypothesis Development Performance in a Computer – Supported and Problem-based Learning Environment, *Computers and Education*, 57, 178
- Sackalingam, Rotgans and Schmidt (2011) Student and Tutor Perceptions on Attributes of Effective Problems in Problem-based Learning, *High Educ*, 62, 1
- Savery and Duffy (1995), Problem based learning: An instructional model and its constructivist framework, *Educational Technology*, 35, 31
- Savin-Baden, (2000) *Problem-based learning in higher education: untold stories* Buckingham: Open University Press
- Schmidt (1993), Foundations of problem-based learning: some explanatory notes, *Medical Education* 27,422
- Schmidt, Rotgans and Yew, (2011) The Process of Problem-based Learning: What Works and Why, *Medical Education*, 45, 792
- Srinivasan, Wilkes, Stevenson, Nguyen and Slavin, (2007) Comparing problem-based learning with case-based learning: effects of a major curricular shift at two institutions, *Academic Medicine*, 82 (1), 74

- Szabo, (1993) Teaching substantive law through problem-based learning in Hong Kong, *Journal of Professional Legal Education*, 11, 195
- Tzannes, (1997) Problem-based learning in legal education: intentionally overlooked or merely misunderstood?, *The Law Teacher* 31 (2), 180
- Winsor, (1997) Applying problem-based learning to practical legal training', in Boud and Feletti (eds.) *The challenge of problem-based learning* , (2nd edition) London: Kogan Page
- Wolff, (2000) *Problem Based Learning. The role of the tutor: A resource guide for faculty*, Vancouver: Wolff Consulting Ltd
- Wong, (2003) *Harnessing the potential of problem-based learning in legal education*, *The Law Teacher* 37(2), 157
- Yuan, Williams, Yin, Liu, Fang and Pang (2011) *Nursing Students' Views on the Effectiveness of Problem-based Learning*, *Nurse Education Today*, 31, 57

Artículo concluido el 10 de julio 2014

Grimes, R. (2015). Problem-based learning and legal education – a case study in integrated experiential study. *REDU - Revista de Docencia Universitaria*, 13 (1), 361-375.

Publicado en <http://www.red-u.net>

Richard Grimes**University of York, UK****Director of Clinical Programmes at the York Law School (YLS)****Mail: Richard.grimes@york.ac.uk**

Richard Grimes qualified as a solicitor in 1977 and worked initially in a law centre and later as a full-equity partner for a provincial law firm, handling a wide range of, principally, publicly funded cases. He has retained an interest in law teaching and research as well as legal practice in the belief that the one informs the other and has worked at several universities in England and Ireland. In 1990 he joined Sheffield Hallam University where he established an in-house solicitors' practice in which undergraduate law students handled real cases under professional supervision, as an assessed elective. He was seconded to the University of the South Pacific from 1995 – 1997 where he became the Director of the Institute for Justice and Applied Legal Studies. In 1998 he was appointed Head of Law and Professor of Legal Education at the University of Derby and in 2000 joined The College of Law as Professor and Director and of Pro Bono Services and Clinical Education. From 2006 to 2010 Richard acted as an independent consultant on a variety of legal education projects in the UK and further afield including in Afghanistan, Iran and Nigeria. He is now Director of Clinical Programmes at the York Law School, University of York. He has published widely on clinical legal education issues and in the legal skills field. He remains committed to learning by doing and to improving access to justice.