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LEARNING TEAM SKILLS AT LAW SCHOOL USING PROBLEM BASED LEARNING

Grant Niemann

School of Law
Abstract
This paper identifies a shift in the practice of law to a team based approach and explores a means whereby this change of emphasis can best be catered for in legal education. The solution proposed is not novel or untested, it simply has not figured prominently in legal education. This may now have to change!

Introduction
With the ever increasing complexity of many of the problems encountered in the work place, total reliance upon the individual (albeit talented individual) is often no longer a viable option. To solve these large problems men and women have done what they always did when confronted with a task, which was too great for one person to handle, they formed teams. Thus it is not surprising that right across the spectrum of the workplace the ubiquitous team has now made its presence felt. No trade, skill or profession has been spared the necessity of having to change to a team oriented approach for the resolution of complex issues.

The practice of the law is no exception. The formation of legal teams has become a world-wide trend. More and more the practice of the law is conducted in a team oriented environment. While to a limited extent, lawyers traditionally functioned as teams when litigating, for example, the senior counsel, junior counsel and solicitor, beyond litigation, lawyers in the past tendered to function as individuals. However it is becoming increasingly popular for legal teams to function outside the time honoured litigation team as mentioned above. Today, groups of lawyers will be assigned to one large case, and will function from the outset as a team. The project does not have to be litigation based, it can be a large commercial project, a large property project, a government-backed initiative such as legislative reform, legal research, or a major litigation such as a class action. In all of these cases the significance of the individual is subordinated to the function of the team. Indeed it is fair to say that in most cases, any one team member is not generally fully aware of all aspects of the issue, such being the size of the matter, hence the only complete picture of the issue is contained within the collective knowledge of the team itself.

The word "team" has been ascribed a variety of meanings. From a highly effective, cohesive group of individuals who work together with commitment to reach a common goal (Bendally 1996) to a group of players who play different parts but enjoy broadly equal status. (Belbin 1996). Often individuals in the team have different areas of expertise or strengths but they all enjoy approximately equal status and all contribute towards a common goal. This is so even where there is retained a team leader, who now acts more in the capacity of coordinator or facilitator, rather than the dominator. Thus the modern team is to be distinguished from the old litigation team of senior counsel, junior counsel and solicitor, where the senior counsel very much regarded him/her self as superior to the other members of the team.

The modern team in the work place is a comparatively recent phenomenon. Belbin (1996) argues that it has only emerged in the post-industrial era. She contends that during the pre industrial age the criteria for assigning work was determined according to age sex tribe or class, and that during the industrial age work was assigned according to qualifications, namely trade skills, experience and education, but now in the post industrial age work is assigned according to what she terms personal orientation and the ability to perform team roles. She concludes that if a person cannot demonstrate an ability to perform a team role, then their prospect for employment is significantly diminished.

With the ever increasing complexity of society the problems that are emerging are multi faceted and often beyond the skill of any one individual. Often these problems can only be solved by the combination of specialised competencies all working towards the one objective, in the team environment. The merging of competencies on its own is not enough, what glues these competencies together in order to achieve an effective result is the dynamics of the team itself. As there can be no expectation that problems will become easier in the future, the employment prospects of people, can only be enhanced if students are equipped with the fundamentals of successful team participation while they are at the undergraduate level.

While this world-wide phenomenon applies to all industry and professions, in the context of this paper the issue will be specifically examined as it pertains to the training of lawyers. If teams are so much a part of modern legal practice, then why is team work not a major feature of modern legal education?
Background

Notwithstanding the obvious logic of teaching team skills as part of an undergraduate law course, this skill has not in the past and in most instances is still not a component of the curriculum of Australian law schools. Even now, there are only random attempts to fulfil this important requirement. (Prince & Dunne 1999: 64).

Indeed the whole idea of teaching undergraduate law students 'skills' such as team work while at law school has not had universal acclaim, as Boon observed:

The risk that law degrees might lose their traditional 'rigour', thus exacerbating the supply problem, apparently underpins the reluctance to reduce 'disciplinary content' at the expense of non disciplinary content. (Boon 1996: 105).

The assumption that skills based learning undermines the 'traditional rigour of law degrees' or detracts from the professional significance of the qualification is not supported by the evidence, indeed if anything it is the converse. (Goldring 1998: 16). Nevertheless considerable efforts were made to ensure that the theory of law was not sacrificed at the expense of greater emphasis being placed on practical training. Accordingly traditional legal education was segregated whereby skills learning was a specialised practical course at the end of the undergraduate degree. (Sampford and Blencowe 1998: 4).

This isolation and sanitisation of the academic or intellectual from the practical, ignores the substantial capacity skills based learning can make to the intellectual development of the student. (Goldring 1998: 27). Empirical evidence shows that the two main deficiencies of students emerging from law schools (especially those which do not incorporate in their curriculum, skills training, initially at the undergraduate level) are (1) the ability to relate to others in a team environment; and (2) the ability to operate with independence, confidence and judgement. (Boon 1996: 105).

The reluctance of law schools to embrace skills based learning is perhaps a result of the comparatively late development of legal education as an academic discipline. The English common law was not considered a classical subject worthy of teaching at University until 1758 and even then it had a tenuous existence. One acquired legal knowledge by indenturing oneself as an apprentice to a practitioner. Thus the skills based component of legal training was traditionally single out as the sole preserve of the practising profession. In Australia, the English approach was enthusiastically embraced with law mostly being taught at night by practitioners who had little or no teacher training and who saw no point in duplicating the teaching of skills, which the student articled clerks were supposed to have acquired during the day. Thus legal education in Australia has tendered to concentrate on the learning retention and reproduction of information at a surface level rather than embracing the techniques of deep learning which can only be effectively achieved by teaching the theory of law through a skills based medium. (Sampford & Blencowe 1998: 3).

In Australia the emergence of full time professional law teachers is a comparatively recent phenomenon. It has only been in the last few years that Australian legal educators have begun to challenge the traditional assumptions concerning the teaching of law, and to apply sound teaching principles to the educative process. (Goldring 1998: 46).

Fortunately legal education (both in the UK and Australia) has gradually gone through a process of change since the 1980's. Now it has certainly been recognised, if not adopted, that a more practical oriented deep form of learning is an essential component of legal education. The UK Advisory Committee on Legal Education and Conduct (1994) declared the 'importance of developing student centred learning in law, in which the students would take active responsibility for their own learning, rather than being the passive audience in a didactic teaching situation.' (Tribe 1996: 17).

Further with the increasing reliance by tertiary institutions on professional law teachers, and the advent of law schools which incorporate practical legal training as a component of their law degree course, students leaving law school will now have much more of the skills required to equip them for professional practice. More importantly they will have been introduced to the enduring benefits of deep legal learning. As Goldring convincingly argues: "The study of law in isolation from the social and cultural environment cannot lead to a full understanding of law. It also requires an understanding of the internal operations of the legal order". (Goldring 1998: 49). Thus law schools that already teach practical legal education as part of their undergraduate degree course, should have less difficulty incorporating 'team skills' as a component of their course.
Educationalists generally agree that lecturing to large groups of students where the students take a passive role and the lecturer is the only active participant is an inefficient use of time and energy. (Tribe 1996: 15). The best way to facilitate deep learning is to encourage a cognitive style which functions most effectively in a group learning environment. (Tribe 1996: 12). When a student undertakes skills work, it requires activity by the student, generally involving a real life or simulated setting, and is often based on group work. An understanding rooted in direct experience and student led discussion increases the potential for deep understanding and absorption of substantive content, it broadens the educational experience and expands the range of potential learning outcomes, particularly in relation to personal growth and independence. (Boon 1996: 102 –103).

If it is accepted (and surely it must be) that a lawyer's professional life begins the day they enter law school, (Kronman 1993: 109), then it is as students that their professional habits take shape. Thus it is only reasonable that when a student comes to law school the method of teaching should reflect what they can expect to experience in the profession of law. In other words, as the practice of the law is best reflected in the skills based group learning method, then this is how the discipline should be taught.

The legacy of the part time practitioner law teacher who moulded law students into passive intellectual sponges of legal knowledge that merely soaked up information without any real understanding of its purpose, could in no way be said to be effectively preparing the student for legal practice. Professional law lectures are all too familiar with the conscientious student who learns by heart their lecture notes but can neither constructively analyse the issues involved, or elicit from them basic legal principles for application to real or hypothetical situations. (Tribe 1996: 7).

It should be emphasised that by skills based team learning it is not suggested that the focus is on the acquisition of technical skills at the expense of a comprehensive intellectual grasp of legal theory. Clearly the object of legal education at the University level is to equip the student with a deep understanding of many of the facets of law. What is essential however is that the transmission of legal information is achieved in such a way that not only is the law known by the student but the skill of intellectual analysis of the information is made possible, and the ability to independently learn the law is acquired as an enduring skill for the future. The point is that the teaching of law as a skill in a team environment is the most effective method of achieving this objective. (Prince and Dunne 1999: 77). Partly this is so because students learn far more from their peers, than from their teachers. (Nathanson and Fine 1999: 191).

The incorporation of skills learning with the acquisition of legal information or theory in the team environment is further enhanced if there is a full utilisation of the students' prior knowledge. By integrating prior knowledge with learned relevant substantive law, procedures and skills, the student's often well developed problem solving ability is efficiently utilised, thereby tying the teaching of skills into the knowledge elements of the respective courses. The team learning goes beyond, that which can be incidentally acquired by operating in the team environment, because the actual focus is on the team dynamics, which is itself learned. Unfortunately, all too often, terms such as 'skills' and 'teams' misrepresents the 'cognitive challenge' both to students who learn in an integrated transferable manner, and to teachers in developing integrated learning skills. (Knott 1999: 51).

While preserving the academic quality of legal education through team based learning, one should not apologise for the fact that such a teaching method will have practical utility in the implementation of law at the professional level. While not all students enter law school in order to be practising lawyers, the fact is that the understanding of the essence of legal theory is best achieved by having a knowledge of its practical application. (Sherr 1999: 53).

Students are not taking the course to acquire legal knowledge for its own sake, rather the rationale for learning legal knowledge is so students can solve legal problems. Students are also taking the course to learn how to acquire the knowledge they need to solve legal problems. Because of their own traditional education, teachers can easily lose sight of this rationale and slip back into didactic teaching methods, such as feeding students knowledge instead of trying to carefully design problems and other materials so that students learn how to solve problems on their own, with limited guidance from teachers. (Nathanson and Fine 1999: 190).

While the teaching of law in a team environment is the teaching of a skill, namely the ability to operate effectively in a team environment, it would be a mistake to assume that such skills teaching should be confined to the teaching of legal skills. Indeed the teaching of the substantive legal theory can be best achieved by learning in a team environment. However the
formation of the team is the beginning not the end of the process. The actual teaching method employed has to be settled upon before effective learning can commence. The act of learning still requires the students to engage in the key cognitive activities of listening, writing, talking, reading and reflecting within the context of a well structured learning framework. (Tribe 1996).

Of all the combinations and permutations of potential team learning methods the one that lends itself best to the legal educational environment is Problem Based Learning (PBL). PBL lends itself more readily to deep learning, because it changes the pattern of information transfer and encourages the student to learn how to learn, rather than merely acquiring information. PBL is generally team based and skill oriented but it is not an unintellectual exercise. The resolution of complex legal problems is a challenging and important cognitive process. PBL in a team environment is the closest thing to ultimate legal practice, and is generally how legal problems are solved in modern legal practice. While PBL teaches legal skills, it is best suited to the learning of legal theory, rather than just the means by which that theory is employed in a practical context. (Cruikshank 1996).

The didactic approach to legal education is a process of 'de-education', because students come to law school with a whole bundle of problem solving skills and these skills are for the most part ignored in favour of the teachers perception of legal problem solving. The dogmatic imposition of the teachers concept of problem solving may only serve to confuse and mystify the subject, thus undermining the student's own often well developed problem solving capabilities. With PBL the student may not only keep what problem solving abilities they have, but are allowed to build upon them and experiment with them by their own means thus keeping what is good and if necessary rejecting what is not. (Cruikshank 1996)

PBL group learning is the ideal vehicle for promoting the transfer of total learning, it enhances the growth of a holistic approach to law. Rather than having strict artificial divisions between subjects, as is the case with the didactic method, PBL group learning de-emphasises these artificial and anti-cognitive lines between subjects. The presentation of an unfamiliar problem, in advance of any teacher dominated information transfer, facilitates free ranging cognitive analysis blurring the artificial lines between subjects and thus encouraging a holistic approach to problem solving. (Webb 1996: 38). A holistic approach to problem solving permits lateral analysis thus ensuring that the best solution is discovered. Compartimentalising law subjects may more readily facilitate information transfer, but it seldom reflects how legal problems are encountered in real life.

Essential to PBL group learning is that the students' prior knowledge of the problem is insufficient to understand the problem in depth. During the analyses the student will encounter problems and dilemma. These problems and dilemmas will then be the focus of formal instruction that will be given by the lecturer later. Thus it is the student who informs the lecturer of what it is that he or she wants to learn, rather than the lecturer simply telling the student what is good for them to know. The students, in small groups, analyse the problem and identify resources for learning on how to solve it. Next they independently pursue their resources and bring their knowledge back to the group and apply it to the problem. (Cruikshank 1996)

The transfer from didactic method of teaching to a PBL can be a traumatic experience both for students and the academic staff. It is not something that can be achieved in a rush. While the introduction of PBL can be progressively staged in such a way that students seasoned in the didactic method can be excluded from the change, it is difficult to achieve this approach with respect to the academic staff. Often the most difficult part of introducing changes such as moving over to PBL is convincing academic staff, who have long functioned under the didactic approach, of the merits of such a change (Prince and Dunne 1999: 74). All too often the solution is to introduce a compromise whereby some of the course is taught according to the PBL method while other parts of the course are taught according to the traditional method. (Cruikshank 1996: 216).

Another argument that is often raised against the introduction of skills based group learning such as PBL is that it is directed only towards those students who wish to enter the practice of the law at the completion of their studies, thus student who do not wish to be legal practitioners, are thereby disadvantaged by the introduction of this learning method. There are a number of responses to this argument. First it is simply not correct to assert that PBL is solely directed to students who wish to ultimately become legal practitioners. PBL captures the 'theoretical and jurisprudential' concepts of law more effectively than the didactic method. (Sherr 1999: 53). The whole reason for proposing the introduction of the PBL method, is to advance a method of learning which will ultimately encourage deep learning in students. It is a student oriented rather than teacher oriented teaching method, and will enable the students to not only know the law
but be able to analyse it as well. Surely such a system of learning must be of benefit to would be practitioners and non-practitioners alike. Second as the vast majority of students enter law school with the intention of becoming lawyers, it is untenable for the small minority of students who do not wish to practice law, to hold back the introduction of a more advanced methods of learning on the basis of this flawed argument. (Goldring 1998:48). Third, there are often other courses offered by Universities, in their humanities departments, which could better cater for such students. Finally students who elect to enrol in law school, should not be surprised if at the end of the day they emerge from their studies trained in the law.

**Problem based learning in a team environment – “The Model”**

PBL is a learning method (more so than a teaching method) and like any learning methods can be changed and adapted according to the circumstances. PBL is usually taught to groups, but it does not have to be taught in a team environment. PBL can be a whole of course method or a part of course method. It can be wholly or partly applied to a topic (Cruikshank 1996). Accordingly when referring to PBL it is appropriate at the outset to define precisely what is meant or understood by the use of the term PBL in the context of the discussion.

In order to conduct some modest empirical research for the purposes of this article a specific model had to be settled upon. The model of PBL developed here, drew heavily upon other models which were previously developed for specific institutions (Cruikshank 1996) but which contained additional elements. The model proposed is as follows:

1. The PBL in a team environment would be a whole of course learning method.
2. Every student who entered the law school would be a member of a team. Students would be placed in the team by the teacher without reference to any particular criteria, although if a student felt that he or she could not function within a particular team and failing all attempts to resolve the problem, the student could change teams.
3. The team formation would apply for all subjects in the semester, but the team would only last for the length of the semester. Following that students could be allocated to different teams or, if they preferred, they could team up again with the same students provided their teamwork was satisfactory and provided that the groupings changed at the beginning of the next academic year.
4. Teams would be established according to law firm names. eg Flinders, Torrens, Murry, etc. There would be between 6 to 10 students per firm.
5. Once the teams had been established they would then learn in their teams according to the problems, assigned to them.
6. The problem would be encountered by the team first in the learning sequence before any preparation or lectures had occurred.
7. The problem would be a well a constructed legal problem based on recognisably realistic facts. If absolutely necessary, some guidance, such as handouts or case references can be given to students at this stage, provided the students are only given a focal point, from where they can start, anything more than this defeats the whole point of the exercise.
8. The problem may require an interchange between firms as occurs in legal practice.
9. The firm would meet initially to discuss the problem, the tutor or teacher would be present, but would be on the sidelines to observe. If asked to assist the assistance would be limited to clarifying issues, not to provide answers. Further meetings of the firm would be planned, but such meetings or exchange of views could occur electronically via e-mail, bulletin board, or live chat. The teacher’s computer would be joined in any such electronic meetings or discussions and he/she may or may not contribute to the discussion. There should be no expectation on the students’ part that the teacher would intervene.
10. The students would then work with the problem conducting whatever research they consider appropriate, each student would be assigned a part of the research. The team would equally and evenly divide the work between them, but the teacher could make suggestions and comments concerning the distribution of work.
11. Following the research phase the students would report back to the firm either at a face to face meeting or electronically in order for the problem to be solved collectively.
[12] If interchange between firms is to occur according to the particular problem, then such interchange would occur at this stage;

[13] A process of reflection would then occur where needed areas of learning are identified by the students, not the teacher;

[14] The tutor/teacher would then lecture on the topic emphasising these deficient areas.

[15] The teacher would also hand out materials on the problem for future reference and to assist with any assignments that may have to be undertaken.

[16] Each problem would be related to a core element of the topic, but would overlap with other elements and be holistic in design.

[17] There would be no more than about 5 core elements, thus about 5 problems and 5 lectures during any one semester.

**Work load**

One factor that needs to be acknowledged and catered for up front is that PBL in a team environment would inevitably increase the workloads of both the students and the teachers, but this is particularly so for the teacher. One of the disadvantages of group training is teacher burnout because it can impose a much greater teaching burden on the teacher unless the teacher is very careful on how he/she designs the course. Inevitably the teacher has more contact hours with the student, and there is a greater temptation for the student to use this contact as a means to acquire content information. Teachers must ensure that the design of the course is such that legal knowledge is acquired independently by the student from appropriate sources such as books. One of the principle elements of this learning method is that students are not merely acquiring legal knowledge, but are using legal knowledge to solve legal problems, and it is in the solution of the legal problems where teachers’ assistance may ultimately be required. (Nathanson & Fine 1999: 190)

Further the traditional information content imparted by the teacher in the course of a lecture must be reduced. Accordingly instead of having more than a dozen 2-hour lectures per semester, there would probably be only 4 or 5 lectures in a semester. However the amount of information available to the student would increase significantly because the student would not be artificially constrained by the course boundaries as imposed by the teacher, or as occurs by default with the traditional method. Students would be expected to approach the lecturer, for individual (or firm) assistance on a much more regular basis than what occurs at the moment. But ultimately the student law firms would be the fundamental environments in which students would learn the law.

**Method of assessment.**

There would be no end of semester exams. Exams at the conclusion of a subject are far too prone to encourage surface learning and run contrary to the whole thrust of PBL in a team environment.

As the learning process is very much student driven and therefore student owned, so too should be the assessment process. Accordingly, 30% of the available marks would be available for distribution by the firm to each partner according to the peer assessment of the partners of the firm.

A further 30% would be allocated to the firms depending on their performance, but this would be assessed by the teacher, who would have the best overview of the operation of all the firms.

A further 40% of the available marks would be allocated to one or more subject assignment/s, which would be set at the beginning of the semester. The assignment/s would be the product of individual student effort. It would be marked by the teacher, and be the primary basis upon which the student is graded, as a pass, credit distinction etc. in the subject.

**Empirical analysis**

Having devised the particular model it then became important to test it out. A group of 74 final year law students were asked to participate in a survey. (Flinders University South Australia, School of Law). They were given a questionnaire in which they were asked to assume that the method of teaching law at University would change so that when they first entered law school, they would become a member of a student law firm. These law firms would consist of about 6 to
10 student law partners. The law firms would be assigned problems during the course of the Semester. These problems would not at the time of distribution have been covered in lectures.

The firms would be given a set time and place to deal with the problem, and from time to time the teacher may attend the meetings of the firms. Dealing with the problem may include dealing with other firms as legal opponents. They would be expected to correspond with other firms using their own letterhead. The firm would have set meeting times. The problems would roughly correspond to the subject that they were doing at the time, such as contracts, torts, criminal law etc., but would frequently also incorporate wider legal issues.

After the firm had dealt with the problem relying on their own resources, the teacher would deliver a formal 'key note' lecture on the topic, possibly followed by a seminar. The firms would operate every semester of the law degree course. A student could change firms each semester, or they could spend up to one year in the original firm. They were then given details of the assessment, as provided above. The students were then asked a series of questions. They were invited to give brief reasons for their answers. The questions concerned:

[1] what they thought of the idea of PBL teaching for law students.
[2] what they thought of the idea of working in groups as student law firms.
[3] what they thought of the student law firms being presented with the problem before they were lectured on the topic.

They were asked to circle their response as:-
1] Excellent (series 1) [2] very good (series 2) [3] interesting (series 3)

The results as shown in the above chart were as follows:-

(i) In relation to question 1, a total of 9 students said it was an excellent idea; 14 said it was very good; 39 found it interesting; 12 said it was no good and none said it was crazy.

(ii) In relation to question 2, a total of 10 students said it was excellent; 20 said it was very good; 28 found it interesting; 14 said no good and 2 thought it was crazy.

(iii) In relation to question 3, a total of 9 students said it was excellent; 22 said very good; 27 said interesting; 13 said no good and 2 said it was crazy.

(iv) In relation to question 4, a total of 2 students said it was excellent, 14 said very good; 37 said interesting; 20 said no good and 2 said it was crazy.
From the replies given in the "reasons" section to each question it could be partly discerned whether or not the "Interesting" answers provided by the students were 'positive or negative' towards the whole idea.

(i) In relation to question 1, 16 responses were positive and 23 were either negative or no comment.

(ii) In relation to question 2, 15 responses were positive and 13 negative or no comment.

(iii) In relation to question 3, 13 responses were positive and 14 negative or no comment.

(iv) In relation to question 4, 9 responses were positive and 28 negative or no comment.

Accordingly when the positive "Interestings" were added to the "Excellentss" and "Very goods" 162 responses were positively in favour of the idea and 143 were negative (but with some of the "Interestings" with no comment this figure is not entirely accurate, in other words it is probably a figure of less than 143).

Analyses of the written comments revealed that, 32 students thought that PBL is closer to reality and therefore a good thing. The idea of having no final exams was supported by 9 students but conversely 11 students considered that final exams were a good thing and should be retained. A total, of 18 students said that the PBL was a refreshing and interesting way to teach law; 9 students said PBL would make them more "employable" after graduation; 28 said it would encourage better learning and 27 praised the idea of learning in groups.

In contrast to this, 31 students were against the idea of working in groups; 35 were strongly opposed to peer assessment; 9 said that lectures should precede the handing out of the problem; 11 said that PBL might be OK for part of the course but not all of it; 23 said it would be unsuitable for first year students; 3 said it was not suitable for non lawyers ie students who do a law degree but who do not intend to practice law; 4 said law student preferred the competition of individual effort of the traditional method; 15 said the whole concept put too much responsibility on the shoulders of students who needed more guidance not less; 7 said it was just a device for the law school to cope with increasing student numbers by reducing the workload of lecturers and increasing the workload of students.

Although the overall response was positive, the margin was not great. The interpretation one can place on these results (of an albeit small sample) is that students are not exactly content with the straight lecture format, but are conservative when it comes to change. Whether or not they have been conditioned by the "system" to be shallow learners, they are by and large comfortable in this learning mode and may not readily want to move away from it. This can be illustrated by the fact that more students (who commented on the issue) favoured the retention of final year exams. Perhaps the most interesting result was with respect to peer assessment. While not always fully supportive of their work being assessed by the academic staff, they over overwhelmingly prefer this to peer assessment, which they whole heartedly rejected.

There were some weaknesses in the survey which may have had some impact on the result, first the sample was only 74 students which is not large, they were from one class in one law school. As they were final year students and knew that any change to PBL would not effect them personally, this may have had some influence on their opinions and conclusions. On the other side of the ledger the vast majority of students took considerable pairs to make written comments, and the comments were often very well reasoned. The making of the comments also threw light on the seriousness of the selection of the answer, because their "circles or ticks" on the survey sheet were reinforced by the written responses they gave.

While acknowledging that there is indeed some truth in the observation by Diana Tribe that 'students are notoriously poor judges of how much they learn from one method of learning when compared to another learning method' (Tribe 1996:6) and while any ultimate decision to switch to PBL would not be based on a survey such as this, it is significant that the majority of students were positive about the PBL method.

A survey was then sent to the members of the academic staff.

The staff questionnaire asked:-

[i] how appropriate is 'problem based learning' ("PBL") to the teaching of undergraduate law students.

[ii] whether 'PBL' would be suitable for first year students.
(iii) whether it should be a whole of course teaching method, or only a teaching method for some subjects, such as PLT (Practical Legal Training) subjects.

(iv) whether it would increase or decrease teaching loads.

(v) whether it is preferable to present students with a problem for solution, before or after they have had a lecture on the topic.

(vi) whether self-assessment was a suitable assessment method.

(vii) whether peer assessment was a suitable assessment method.

(viii) or whether a combination of Self, Peer and Teacher assessment was appropriate.

(ix) whether PBL would enhance a students' ability to practice law.

(x) whether PBL would enhance a students' academic ability.

(xi) whether in the practice of the law practitioners encounter problems before or after they know the correct answer

(xii) whether practitioners work mostly alone or in teams.

There were 8 responses received out of a possible 12 academic staff surveyed. The results were as follows: 6 said PBL was a very appropriate way to teach law, 2 were not in favour of this method of teaching; 7 said it was appropriate for first year students; but they were evenly divided on whether it should be a whole of course or part of course learning method; 7 out of 8 said it would increase teacher workload. They were evenly divided on what should come first, the lecture or the problem; 6 out of 8 were against self-assessment; 6 out of 8 were against peer assessment; but all thought that a combination of self, peer and teacher assessment was a good idea. All staff said that PBL would enhance a student’s ability to practice law; 7 said it would enhance the academic ability of the student. In the practice of the law, 5 staff said that practitioners encounter problems before they knew the correct answer and all staff believed that the majority of practitioners now work in teams.

Again this was a very small sample taken from the staff of one law school. However, it was responded to by the majority of staff available at the time. The "ticks and circles" were mostly all followed up by written comments. Unlike the students, all staff were positively in support of the team method PBL for teaching law students, notwithstanding that the majority of the staff considered that it would increase teacher workload. The teaching staff (unlike the students) considered that PBL was suitable for first year students but like the students the majority were against peer and self-assessment.

Overall the responses from the academic staff were positive like the students they considered that it would be more practical than the lecturing method. A number of staff commented that without a specific definition of the model being presented to them it was difficult for them to be specific. A model was given to the students, but unfortunately this information was not provided to the staff. Perhaps one of the most instructive comments made by the staff was their acknowledgment that PBL encouraged deep learning and that it would enhance a student’s academic ability as well as their practical ability. The only slightly disappointing result was the uncertainty concerning whether or not the student should be presented with the problem before they receive formal instruction on the topic. one can only assume that this equivocal result (4 in favour 4 against) was more a result of the failure to provide a definition of the PBL model, rather than a rejection by half of the staff of one of the principle tenets of PBL, namely the concept of having the student explore their own knowledge base in solving a problem before that knowledge base is 'topped up' by formal lectures.

Conclusion

The process of change is often affected by a reluctance to depart from the known. While most law teachers would not argue with the desirability of providing a means whereby students at least have the facility to become deep learners, and while it is hard to refute the evidence which so clearly demonstrates that didactic teaching followed by end of year exams, is not only inefficient but promotes surface learning, actually making the move to another system, such as PBL, can often be the most difficult part of the overall process of change.

If there was ever a time, when it was appropriate to concentrate teaching efforts on the transfer of legal information, then that time has now well and truly passed. In Australia alone with 6 States, 2 Territories, and the Federal Government, producing vast volumes of legislation and
case law on a daily basis it is neither useful nor possible to effectively impart all this information to students. While the acquisition of legal knowledge is important, at law school it should only ever be employed as a means to an end. namely the means by which student can themselves learn the law.

Notwithstanding that PBL appears to work very well in other disciplines, such as medicine, and notwithstanding the transparently obvious benefit of PBL in a legal educational environment, it may still be some time before law teachers are convinced of the advantages of transferring to this learning method. What is pregnant however is that the practice of the law is increasingly occurring in a team environment, and the time is now upon us whereby law schools will need to cater for this change. While other learning methods, other than PBL may be evolved to cater for this necessity, or while derivatives of PBL may cater for this need, it seems unlikely that law schools will be able to maintain their relevance if they elect to ignore this shift in legal practice.

References


