



## Teaching and Learning Procedural Law Courses: Students' Perspectives

### *Pengajaran dan Pembelajaran Kursus Prosedur Undang-Undang: Perspektif Pelajar*

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### ABSTRACT

In the last few years, there have been some changes in the approach of teaching procedural law courses in the law programme in Universiti Sains Islam Malaysia (USIM). An empirical study of students from USIM law programme from classes of different techniques used by different teachers was set out to investigate the best method and approach particularly in teaching and learning procedural law courses. This paper provides the perspectives of the students on generally two different methods of teaching and learning of the procedural subjects. Students who attended classes with traditional approach viewed that the procedural subjects are complex and very detailed. On the other hand, students who entered classes which incorporate practical trainings such as drafting pleadings, letters and legal opinions experienced exciting learning environment despite complexity of procedural subjects. The study reveals that the students expects dealing with real documents and hands on exercises in learning procedural subjects. This study is significant to encourage teachers in USIM law programme to adopt the approach which has potential to inculcate the necessary skill for the law students.

**Keywords:** Teaching and Learning, Procedural Law, Legal Education, Students, Malaysia





## ABSTRAK

Dalam beberapa tahun kebelakangan ini, terdapat perubahan dalam pendekatan pengajaran undang-undang prosedur dalam program undang-undang di Universiti Sains Islam Malaysia (USIM). Satu kajian lapangan telah dijalankan untuk mengenalpasti kaedah dan pendekatan terbaik khususnya dalam pengajaran dan pembelajaran kursus bagi undang-undang prosedur. Makalah ini menyediakan perspektif pelajar berdasarkan dua kaedah pengajaran dan pembelajaran bagi beberapa kursus prosedur yang berbeza. Pelajar yang menghadiri kelas dengan pendekatan tradisional berpendapat subjek prosedur undang-undang adalah kompleks dan sangat terperinci. Sebaliknya, pelajar yang menyertai kelas yang menggabungkan latihan praktikal seperti menderaf pliding dan menderaf pandangan undang-undang mendapat pengalaman persekitaran pembelajaran yang menarik dan menyeronokkan meskipun berhadapan dengan kursus-kursus prosedur undang-undang yang agak rumit. Hasil kajian menunjukkan bahawa pelajar menjangkakan pengalaman nyata pendedahan kepada dokumen undang-undang sebenar dan latihan secara amali/praktikal dalam pembelajaran kursus-kursus yang melibatkan undang-undang prosedur. Kajian ini amat penting bagi menggalakkan tenaga pengajar dalam program undang-undang USIM untuk mengamalkan pendekatan terbaik dalam memberikan kemahiran yang diperlukan untuk pelajar undang-undang.

**Kata Kunci:** Pengajaran dan Pembelajaran, Undang-Undang Prosedur, Pengajian Undang-Undang, Pelajar, Malaysia.

## INTRODUCTION

An important component of legal education in all law schools in Malaysia consists of procedural law courses. The procedural courses particularly aim to equip law students with the knowledge and practice of procedural law mainly relating to the proceeding in a court of law. Some of the courses are civil procedure, criminal procedure as well as bankruptcy and winding-up proceedings. These courses are commonly taught as compulsory courses in upper or professional years of law school in which students have already completed substantive areas of law.

In recent years, law graduates are often criticised of having poor legal skills including those that aimed to be instilled in procedural law courses. A recent study on the directions of legal education in Malaysia commissioned by the Ministry of Higher Education found that many law students are lack of various skills including thinking across different areas of law; arguing positions orally, mediating disputes and creative thinking in finding legal solutions (Ministry of Higher Education Malaysia 2013). Besides, knowledge of court procedures and its application, as well as drafting legal documents which are part of procedural law content, also need to be improved (Ministry of Higher Education Malaysia, 2013).



This criticism has driven the law schools to review their current methods of teaching and learning to adapt to the needs of the profession. The focus is a greater emphasis on the inculcation of skills rather than sole infusion of knowledge as is the current emphasis in local law schools. It is essential that graduates to be introduced to practical skills and to understand how doctrine relates to practice (Fliyd, Griffin, and Sneddon, 2011).

Generally, there are various approaches in teaching and learning. Experiential learning for instance suggests the learning process is created through transformation of experience (Kolb 2014). Other may propose Socratic method to promote cooperative argumentative dialogue between teacher and students, based on asking and answering questions to stimulate critical thinking and to draw out ideas (Rhee, 2007).

Despite of various approaches and methods in teaching and learning, the goal should be to provide sufficient knowledge of applied doctrines and practical contexts so that the graduate lawyers have a basis to understand the context of practicing law (Finkelstein, 2015).

Like many other professional courses, teaching and learning professional skills require special approach different from traditional approach of lecture and tutorial which centres on lecture-based instruction in classroom. From the aspect of delivery method of the procedural courses, there has been a growing awareness among law teachers to change the approach of traditional form of lecture and tutorial to a method that incorporates practical aspects. Whilst there are still many of the teachers who continue the same teaching approach, there are growing number of teachers who have adopted an experiential learning approach which includes some elements of doing in classes such as drafting summonses, pleadings and affidavits. Students are also given assignment to handle simulated cases and to engage in interlocutory hearings, and negotiations with hypothetical clients.

The main objective of this study is to evaluate the method of teaching and learning of the selected procedural law courses presently adopted by the relevant lecturers in the faculty. This paper focuses on the perspective of the students as to the effective approach in teaching and learning procedural law courses, their expectations as well as suggestions for improvement.

Students are important stakeholders of the educational institutions whose input are often overlooked (Henzi, Davis, Jasinevicius, and Hendricson, 2007). On the other hand, the successful implementation of learning outcome relies upon the understanding of how students experience and perceive their studies. Nowadays, students also played important roles as the 'agents of change' and their participation in policy making are often advocated (Plasschaert, Lindh, and McLoughlin, 2006). Therefore, this study which looked at the perspective of students is important to contribute towards the enhancement of the delivery method by law teachers. Furthermore, this paper adds to the existing studies on the aspects of teaching and learning procedural law courses which have been rather limited especially in Malaysia.



## RESEARCH METHODOLOGY

The study sought to obtain the perspective of the students in the Faculty of Syariah and Law, Universiti Sains Islam Malaysia. Interviews were conducted in 2017 involving three batches of former final year law students. These students had completed all the procedural subjects taught in the fourth and final year of the law program.

There are 20 students participated in the study. Of these, 4 students were 2014 graduates; 10 students were 2015 graduates and 6 students were 2016 graduates. The 2014 graduates consisted of 22 which sample number was 18.2%. The total 2015 graduates were 42 and this made 23.8% of sample. The number of the 2016 graduates was 50 making the number of sample was 12%. The participants were chosen by using simple stratified sampling representing each batch which stratum is according to the three groups of different batches of students.

Table 1: Participants Sampling

Batch / cohort	Number of participants	Total number of students	Sampling percentage %
2014 graduates	4	22	18.2
2015 graduates	10	42	23.8
2016 graduates	6	50	12
Total	20	114	17.5

The total number of 20 participants from 114 graduates represents 17.5%. Most of the graduates have already started working throughout Malaysia and it is difficult to involve each of the graduates. Moreover, for the qualitative study such as interview, there is no standard rule to determine appropriate sample size. According to Patton, sample size may best be determined by the time allotted, resources available, and study objectives (Patton 1990). The questions asked were as follows:

- (1) Do you like the teaching method used by the lecturers in teaching the subjects (the particular subject mentioned)?
- (2) What is your expectation when you learn the subjects? For example, what do you think you need to learn or what skills you need to learn?
- (3) Do you have any suggestions to improve the approach of teaching and learning procedural subject in the faculty?

## RESULTS AND DISCUSSIONS

Preference on the teaching method (Do you like the teaching method used by the lecturers in teaching the subjects?)

There are two different approaches taken by the teachers in teaching the subjects attended by the participants in the faculty. Both groups of teachers have experience in legal practice. Some of the teachers were teaching part-time in the faculty. The others are full time teachers with experience in legal practice.



One group adopted a conventional method which is lecture-tutorial oriented. Lectures were delivered during lecture hours imparting on the concept and content of laws. Tutorials were used to test the understanding of students on the topics delivered during lecture. This approach is referred to as 'Method A'.

The other group employed a combination of approaches stressing on experiential learning exercises, referred to in this paper as 'Method B'. In this approach, students are learning by doing the necessary aspects i.e. the main processes involved in a court proceeding. The process ranges from preliminary steps necessary before initiating the court proceeding, the court proceeding itself up to the process involved in post-court proceeding. For civil proceeding, the preliminary steps involve process in collecting information, writing letters and legal opinion, and drafting cause papers or pleading documents. The process conducted during proceeding include filing, service of documents, exchanges of pleadings, as well as preparation for and conduct of hearing, trial and submission. Post-court proceeding should also be included as this necessary part has often not been given adequate attention. On the other hand, criminal proceeding requires less document preparation but more concentration on the skills for preparation for trial and submission. Both types of proceedings require the ability to apply the relevant substantive laws.

From the interviews conducted, participants indicated preference to the classes which employed Method B that incorporated elements of practical training. On the other hand, almost all the participants who attended classes employing method A expressed dissatisfaction with the delivery method (i.e. 18 from 20 students with experience of learning using Method A).

### **Method A**

There were 3 from 6 procedural courses for 2015 batch and all classes for 2014 and 2016 batches adopted Method A.

Participants explained that teaching and learning in the courses were oriented on lectures and tutorials. During lectures, contents, procedural laws and the documents involved were explained by the teachers using slides. During tutorials, students were given questions for discussion. Discussion based on questions and answers enhance understanding of the content of the courses. Table 2 below provides by the participants on classes using 'Method A'.

However, most participants stated that it is difficult for them to fully understand and memorise the content of the courses due to the sheer volume of the courses and documents involved. 2 participants suggested that more practical exercises were conducted. 1 viewed that having samples of real documents would make learning easier.



Table 2: Participants Remarks on Classes of Method A

<p>“(The course) is specific and cohesive”</p> <p>“The explanation was detailed”</p> <p>“The experience of the teachers helps to explain better”</p> <p>“Too much theories”</p> <p>“It would be interesting if the class include practical exercise as in the court”</p> <p>“It is better to teach with real document sample”</p>
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## Method B

There were no classes for 2014 batch that adopted Method B. On the other hand, there were 2 from 6 classes of 2015 batch employed Method B. The 2 classes were Bankruptcy and Winding Up; and Probate. As to 2016 batch, there were no classes that they took (ie Civil Procedure and Criminal Procedure), employed Method B.

All students who entered classes in Method B stated that they were happy and satisfied with the delivery method. A course which received most compliment is Bankruptcy and Winding-up. A student stated that the delivery method was so effective that he could understand the procedures and the process of preparing the relevant documents. Table 3 provides several remarks from participants for class Bankruptcy and Winding Up adopting 'Method B'.

Results from the interviews showed that the teaching process adopted a practical method which emphasizes several key elements:

- Explanation by teachers of key aspects in simple language
- Students were provided with sample of real documents
- Students were given task to learn to prepare the cause papers, the draft submission and technique to argue a case in court.
- A friendly environment to avoid stress among students

As the subject is specific to a particular proceeding, that is bankruptcy and winding-up only which process is straightforward, this course could represent a good example for students to understand other processes in civil and criminal proceeding. This may compliment other subjects such as civil procedure and criminal procedure which combine various aspects with many complexed processes.



Table 3: Participant Remarks for Class Bankruptcy and Winding-up

<p>"Effective teaching method that I could understand the course well."</p> <p>"Best thing I've ever had in my life at USIM."</p> <p>"Sample of real documents were shown."</p> <p>"Cause papers, moot exercise and how to argue are taught."</p> <p>"Exciting class."</p> <p>"The best class I had."</p> <p>"Friendly environment."</p>
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For another class, Probate and Succession, Method B was employed to certain extent, even though for most part, the class is lecture oriented. This is due to the nature of the subject which apart from the procedural aspect, also consists substantive laws on probate for the most part. However, aspect of experiential learning was adopted. Students were assigned to conduct a visit to the relevant government departments and law firms for them to understand the operation of the law. However, one participant suggested for more practical exercises given especially for the preparation of the documents involved.

From this perspective, learning by doing, or on the part of the teachers, teaching by doing may overcome difficulty that the students faced to relate to many issues in civil procedure. This is because students are learning about that process without having seen it in action. Until students have to make the discretionary litigation decisions themselves, they will not understand the complexity of the rules of procedure and why the rules say what they say (Bamford 2013).

### ***Students' Expectations and Suggestions for Improvement***

As regard to the aspects of students' expectations and their suggestions for improvement, the question asked to the participant were:

- What is your expectation when you learn the subjects? For example, what do you think you need to learn or what skills you need to learn?
- What are your suggestions to improve the approach of teaching and learning procedural subject?



Several components were highlighted by the participants:

First, on the delivery of the courses, it is expected that students should be able to deal with real documents, to draft the relevant documents, to know the procedure, hands on exercise on dealing with the proceeding. A participant stated: "Students should be equipped with knowledge of procedures both in theory and application. The students should be taught on how to draft court documents, process in the court, proper words to be used." Another participant said: "*My expectation is that when I learnt the subjects, I should know how to draft the documents and how to apply the legal provisions into the present case.*"

Many participants also suggested for the same individuals to teach both parts of a subject which is taught for two different semesters.

Second, it is also expected that the teachers should have legal practice experience. As a participant highlighted: "*I love the way practitioners taught me about procedural subjects... they were so experts... and knowledgeable in their area of field... since they were dealing with the matters everyday*". Another suggested that "*session with practitioner will be a good exposure*".

Third, the participants also suggested various other approaches to be taken to enhance learning. Examples given are using a simulated law firm system; watching movies related to law; case study; conducting a mock trial; visit to the relevant institution; and engagement with practitioners.

Fourth, a few participants suggested that a procedural law courses should not have written examination. Focus should be given more to ability to write and prepare documents as well as other advocacy aspects such as strategizing of cases and preparing arguments in courts.

Finally, a participant suggested that a class may involve a junior batch to witness the mock proceeding conducted by senior students to have early exposure before they enter the class in the coming years.

As could be seen, delivery of courses using Method B may address the expectation of the students consistent with the finding of item 1 ie related to the students' preference on the teaching method of the procedural law courses.

## **CONCLUSION**

This study highlights students' perspective and their expectations on teaching and learning approach of the procedural law subjects. Approach based on experiential learning received positive feedback from students. This approach addresses difficulties that the students faced in learning the procedural law subjects. This study is significant to encourage more teachers to adopt the same approach which has potential to inculcate the necessary skills for the law students particularly in USIM law programme.



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