Problem-Based Learning: An Alternative Approach To Legal Education

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Suzanne Kurtz, Michael Wylie, Neil Gold* Problem-Based Learning: An Alternative Approach To Legal Education

I. Introduction

This paper is intended to provide legal educators with an introduction to problem-based learning. Problem-based learning has several variations and each of them will be briefly reviewed with a view to providing insights as to how the method might be used. We will underscore the pedagogical rationale for the method and place it in the context of developments in legal education generally. In addition we will describe what a teacher actually does when using a particular variation of the method.

One of the striking characteristics of problem-based learning is its potential for application across learning objectives and styles, subject areas, and individual student preferences. Since, in its more refined variations it is fundamentally student-centred, it challenges both instructor and participant to learn and to learn to learn. It is our belief that if we can empower our graduates to learn to learn throughout their personal and professional lives, we will have accomplished the highest learning goal possible.

II. What is Problem-Based Learning?

1. Taxonomy and Definitions: Problem-based learning refers to a variety of educational methods. In his article, "A Taxonomy of Problem-Based Learning Methods", Howard Barrows identifies six variations.1 While these can be adapted in any number of ways, they all use problems as part of the learning process.

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1. (1986), 20 Medical Education 481. The names given to the six variations by Barrows are confusing. Not wishing to add confusion to existing confusion, we have resisted a desire to change the labels, except for the "case method" which, as noted, is a misleading label in the legal context.
(a) *Lecture-based cases:* The instructor presents information in lecture form and uses one or two cases or vignettes to illustrate the information given.

(b) *Case-based lecture:* Prior to a lecture, students are given a complete written problem or case vignette which highlights material to be covered in the lecture.

(c) *Case method:* Students are given a complete written problem to study in preparation for a subsequent class discussion. In the discussion, the teacher may use a Socratic approach.

Barrows' use of the term "case method" may cause confusion. For him, the case method always involves the assignment of a problem for subsequent class discussion. This will not always be true for the case method as it is known to law teachers. What Barrows describes as the case method may be better known to legal educators as the problem method. As a result, we propose to use the term "problem method" for what Barrows calls the "case method." We will use the term "case method" to refer to the teaching method originated by Christopher Columbus Langdell.

(d) *Modified case-based:* Usually used in small tutorial groups or independent study, this method provides students only with partial information about the problem. Students must make "inquiries" to collect additional information, organize it coherently, and decide how to handle the problem. Students are restricted in the inquiries and decisions they can make, as they are usually presented with a limited number of alternatives from which to choose.

(e) *Problem-based:* The simulation formats which provide the basis for this method allow for full and free inquiry and decision making on the part of students. The simulation begins by providing context and preliminary information about the problem, for example, those few facts that a client gives the receptionist when making an appointment with a lawyer. Students then direct their own learning, exploring the problem in much the same way as they would with an actual problem. All parts of problem solving and lawyering can be included in these simulations, from gathering information and interpreting it to thinking through how to handle the problem to reaching and implementing a decision. Again, students work in small groups.

The most realistic problem-based format is the live simulation. For example, a client may be trained to portray a specific case. Alternatively, print or computer formats can be set up so that students “interact” with them. The book or computer program contains answers to questions students might ask in a simulated or actual setting; for example: Question: “What was the client’s blood alcohol reading?” Answer: “.12”. Information is revealed only as students request it. The teacher’s role in the problem-based format is to help guide exploration of the problem.

Closed loop or reiterative problem-based: An extension of the problem-based method, this variation requires students to review and evaluate the resources and reasoning process through which they analyzed the problem. Students reflect on their new learning, prior knowledge, reasoning, and problem solving skills.

These six methods can be placed on a continuum (see Figure 1). Barrows suggests that lecture-based cases and case-based lectures should be at the left end of the continuum: (a) because these approaches provide students with all the facts they need to know, organized for them in a summary statement of the problem; and, (b) because these varieties of problem-based learning are essentially teacher-directed, that is, the teacher generally decides the amount and sequence of material to be learned.

In the problem method, which appears in the middle of the continuum, the complete, already organized problem is presented to students, but teacher and students share in directing the learning. In the modified case-based approach, a number of facts are provided, but students make additional inquiries, choose actions, and make decisions from a limited number of alternatives that are presented to them. Student-directed learning is typical of this approach.

At the right end of the continuum are the problem-based and reiterative problem-based varieties. In these, students must assemble and organize the facts of the case and decide how to handle it, through a process of free inquiry, reasoning, and decision-making. Students generally direct their own learning, guided by teachers, the selection and design of the problems, and the course objectives. The problems, not a set syllabus, provide the stimulus and the framework for learning. Knowledge is acquired through self-directed study and small group discussions, rather than through lectures. Problem solving skills are developed, as are communication skills if live simulations are used.

Legal educators have long been familiar with the first three methods. However, discussions with colleagues and a review of the literature reveal that few law schools have tried the modified case-based, problem-based, or reiterative problem-based methods. A major exception is the Faculty
of Law at the University of Limburg in Maastricht, The Netherlands, where the entire curriculum is problem-based.³

Although law schools in general seem not to have experimented with these methods, a number of medical schools have been using them (and researching the results) for more than a decade.⁴ This experience and research have convinced some medical schools, most recently Harvard, to convert a large part of their curriculum to problem-based or reiterative problem-based learning. Other medical schools, such as Calgary, teach certain specific courses using only these methods, or use them for various purposes within more traditional course work or as part of clinical skills and other practical components of training.

The remainder of this paper focuses primarily on the problem-based and reiterative problem-based methods, hereafter referred to as SPBL, student-centred problem-based learning.⁵

2. Distinguishing Characteristics and Rationale: As Barrows and others suggest, SPBL is the learning that results from working toward understanding or resolving a problem. The problem is encountered first in the learning process — before any reading in the area — and, in the purer applications of the method, before, or often instead of, lectures or other formal course work. The only "preparation" students need is their prior knowledge and experience.

The primary objective of SPBL is to accumulate the basic concepts of a discipline in the context of problems or issues encountered by practising professionals. Instead of learning self-contained and quickly forgotten bodies of knowledge, such as information covered in lectures, information is gradually assembled in a more "helter-skelter" way as students reflect on issues or gaps in knowledge which they identify as they work through problems.⁶ An assumption of SPBL is that the way

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³ For a description of problem-based learning at the Faculty of Law, University of Limburg, see J. C. Moust and H. J. Nuy, "Preparing Teachers for a Problem-based, Student-Centered Law Course" (1987), 5 J. Professional Legal Education 16. In Australia, the College of Law (New South Wales) is studying the introduction of problem-based learning: see M. Gordon and K. Winsor, "Problem-Based Learning in a Practical Legal Training Course" (1988), 6 J. Professional Legal Education 105-106, 210-211.


⁵ This label may be somewhat awkward, but we want to distinguish the problem-based and reiterative problem-based methods from the other methods of problem-based learning.

⁶ Norman, supra, n. 4.
information is acquired assists the student in remembering and applying that information in practice.\textsuperscript{7}

SPBL offers other important benefits as well.\textsuperscript{8} It develops self-directed, life-long learners, better able to cope with changes in the law. It encourages student independence and responsibility in the learning process. Students are more motivated, since the learning seems more relevant. Problem-solving skills can be better examined and developed.\textsuperscript{9} Misconceptions and ineffective reasoning can be identified and confronted. Communications skills can be taught using the method. Skills useful in group practice can be developed. Prior knowledge and experience is reactivated and built upon.

Having described problem-based learning, we next briefly consider its place in the context of legal education.

III. Problem-Based Learning in Context

The case method of teaching initiated in the United States by Christopher Columbus Langdell in the late 19th Century,\textsuperscript{10} has been the primary base for law learning in the United States and Canada for several decades. Other parts of the Commonwealth, including Australia, New Zealand, and the United Kingdom, received this method with skepticism, though there are many examples of its adaptation in all three jurisdictions.\textsuperscript{11} The purposes of the case method have been said to include the following: learning legal rules, criticizing reasoning, developing lawyers' problem-solving skills, identifying political values and social policies underlying law making or its interpretation, and searching for principles or theories which unite law or one or more of its departments. The Socratic dialogue provided an instructional context for these processes and a method for sharpening verbal, argumentation, and quick-thinking skills.

\textsuperscript{7} Schmidt, \textit{supra}, n. 4 notes that there is some evidence which tends to support this claim.

\textsuperscript{8} These benefits have been drawn primarily from Barrows and Tamblyn, \textit{supra}, n. 4 at chapter 1; Moust and Nuy, \textit{supra}, n. 3, at 24; Schmidt, \textit{ibid.}; and L. Wilkerson and W. Bennett, "Problem-Based Learning: What it is and is not", Presentation at The University of Calgary, Workshop on Problem-Based Learning, June 19, 1989.

\textsuperscript{9} On the need for greater emphasis on problem solving skills in law schools, see Stephen Nathanson, "The Role of Problem Solving in Legal Education" (1989), \textit{39 J. Legal Education} 167.


However, there are limitations to the case method. First, there is no well-defined or elaborated technique for case review. Analysis proceeds through repetitions of case briefs (facts, issues, ratio decidendi, reasons for judgment, holding and, possibly critiques) or on the basis of more or less idiosyncratically directed teacher-led discussion. Students must await the instructor's lead without knowing how to prepare for it. Further, cases are often narrow reconstructions of actual happenings, denuded of the realities of their backgrounds in fact and of the processes and events which gave rise to the court's judgment. Case study is limited to inquiries based on the court's selection of relevant information and its processing. If the case method is coupled with the Socratic dialogue of a Professor Kingsfield from *The Paper Chase*, the result is often inhumane and anti-intellectual.

Over the years, lectures, seminar discussions and presentations, the problem method, and clinical legal education have supplemented and sometimes supplanted the case method. Generally speaking, these methods tend to meet some of the harsher criticisms levelled at the case method and Socratic teaching. Lectures help to summarize and to illustrate, despite the fact that they often induce learner passivity, short attention spans, and monotony.

Seminars facilitate interchange of ideas and permit students to present their research findings and analysis. The problem method is a close cousin of SPBL and, as such, offers many of the advantages of SPBL: it provides student motivation and responsibility in the learning process and develops problem solving skills. However, since students are provided with a complete written problem in the problem method, they do not have an opportunity to develop their skills of inquiry and communication. Further, students are often given research references, and so do not need to practice their research skills. Clinical legal education offers opportunities for the inclusion of many methods of instruction, and it has the added dimension of providing individual lawyering performance supervision, arising oftentimes out of direct client service. However, clinical programs are costly, complex, and have never really become popular in Canada's law schools. Further, since clinic experiences are dependent on the client problems that come through the clinic door, learning can be haphazard.

Student-centred problem-based learning can meet many of the limitations of other methods. It permits a move away from the teacher-centred case method. It allows the instructor to use detailed problems, rich in context. SPBL provides greater motivation to students than the lecture method. In theory, it also provides better retention of knowledge and greater likelihood that retained knowledge will be applied appropriately in the working world. Unlike the problem method, it gives
students a complete experience in problem solving, including the inquiry and research stages. Communication and small group practice skills can be developed using SPBL. It can be less costly than clinical education, and more systematic in its coverage of substantive law.

SPBL is not without its own limitations.\(^2\) However, its advantages suggest that it is a method that legal educators should consider implementing. SPBL does not have to be the only method that an instructor uses. It could receive very minor use as part of a particular course. At the other extreme, it could be the basic approach adopted in an entire curriculum. It can be used in conjunction with other teaching methods as part of an overall teaching strategy. The extent of its use will be dependent on a number of factors, including class size, resources available to implement SPBL, and the nature of the course.\(^3\) Flexibility is a hallmark of the method.

IV. Implementing SPBL in Law Schools

1. Introduction

Our discussion will focus on the design of the problems to be used, the role of the instructor in problem based learning, the place of the method in a law school curriculum, and some challenges facing anyone wanting to use SPBL. Our discussion will be detailed, so that those who wish to try SPBL will have adequate information on which to proceed.

For the sake of convenience, we will assume that the type of problem being used is that associated with a lawyer-client relationship. It is important to emphasize that this is not the only type of problem that may be used in SPBL. For example, a problem could be stated for consideration by a "law reform commission" comprising students in the class. Problems encountered in a trial, or in the closing of a corporate transaction, could also be used. The setting and nature of the problem will depend on the objectives that the instructor wishes to achieve. The outline of SPBL which follows may be adapted as necessary to take into account the problem setting being used.

2. Stages in Legal Problem Solving

As a preliminary step to the discussion of designing problems for use in SPBL, it is necessary to briefly identify and discuss the stages in legal problem solving. Breaking down the problem solving process into stages provides an opportunity to consider the aspects of the process that should

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12. See infra, section IV 5.
13. See infra, section IV 5.
be developed as students move through their legal education. Opinions differ over what constitutes the stages in legal problem solving; however, for purposes of this paper, it seems useful to break legal problem solving into the following stages:14 (i) Problem finding; (ii) Preliminary consideration of approaches to the problem; (iii) Inquiry strategy; (iv) Issue identification; (v) Research; (vi) Legal analysis and solutions; and (vii) Counselling or case management.

(i) **Problem finding stage:** This stage refers to the initial part of legal problem solving, which in law school may be the reading of a written problem. If simulated or actual clients are used to present the problem, it is the opening segment of an interview in which the client states in a general way why she is seeking legal advice and what result she hopes to achieve.

(ii) **Preliminary consideration of approaches to the problem:** When a law student receives preliminary information from reading a written problem or interviewing a client, typically she processes the information and starts to think about the type of problem that is involved, how it might be resolved, and what obstacles lie in the client's way. A critical function is problem definition. How a client's concerns are seen in terms of issues and approaches will to a large extent determine the quality of the outcome.15 This takes the student into the second stage, preliminary consideration of approaches to the problem.

(iii) **Inquiry strategy:** A law student dealing with a simulated or actual client will typically require more information about the fact situation confronting the client when she starts to define the problem and think about possible approaches to its resolution. This moves the student into

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14. These stages are based on stages identified by Barrows and Tamblyn, supra, n. 4, in the medical field. We have adapted the stages into the legal field. An alternative description of the steps in legal problem solving is given by H.F.M. Crombag, J. L. de Wijkerslooth, and E. H. van Tuyl van Serooskerken, "On Solving Problems" (1975), 27 J. of Legal Education 168. In their article the authors describe four versions of their "working program" for legal problem solving. Their third and fourth versions attempt to describe the legal problem solving process in considerable detail, detail that is not necessary for the purpose of this article. Their first and second versions are less detailed, but do not describe the legal problem solving process in a way that we believe is as useful for our purposes. For example, they seem to assume a simple presentation of a problem's facts to law students, perhaps in a written form. However, if a simulated or real client is used in a SPBL approach, it will be up to the students to seek out the necessary information.

One could identify the stages in legal problem solving differently than has been done here. For example, see Nathanson, supra, n. 9. The main point to keep in mind is the purpose for which the stages are being identified: to allow the instructor to clearly consider those aspects of the problem solving process that should be developed at any particular time.

the inquiry stage, as she asks a series of questions designed to do a number of things, depending on the nature of the problem. Usually the student will try to determine whether her initial formulation of the type of problem is correct, and whether, given the facts, certain possible approaches under consideration might work. This stage may be limited if the student is dealing with a complete written fact problem. However, even with written problems law students frequently re-read the fact situation, which is the equivalent to a request for additional information from the client.

(iv) **Issue Identification:** In this stage the issues presented by the problem become crystallized. The student will have completed most of the fact finding task, will have synthesized the factual information, will have considered a number of approaches to the problem, and should have identified with particularity the issues that still require resolution.

(v) **Research:** The student will then consider what further factual or legal information is required in order to resolve the outstanding issues. Additional factual information may be obtained from whatever sources are appropriate. Further legal information may be obtained from reviewing relevant statutes, cases, texts, and articles, and synthesizing the knowledge so acquired.

(vi) **Legal analysis and solutions:** With the knowledge of the relevant facts and law in mind, the student will analyze the outstanding issues in an effort to identify possible solutions. This stage, which may involve both statutory and case analysis, lies at the heart of the legal reasoning process. Its statement here in a single sentence belies a very complex mental process.

(vii) **Counselling or case management:** Once the legal analysis has been completed and solutions identified, the student enters the final stage of the problem solving process. For the student faced with a written problem, this stage may involve the articulation of solutions that have been reached and consideration of how she might counsel the client or otherwise manage the case. For the student with a simulated or actual client, this stage involves a counselling process, as the student presents solutions to her client, and assists the client in deciding on a course of action.

These are not linear procedures. Rather, problem solving is a dynamic process. For example, some legal analysis occurs in the initial stages of the process, as the student develops an inquiry strategy and begins to identify issues for consideration. Further, the more one knows about a problem the more likely it is that the definition of the problem will change yielding steps backwards and forwards across the above-described stages.
Problems can be designed and used in a SPBL approach to develop, for example, skills in issue identification, legal analysis, research, communication, or any combination of these.

3. Designing Problems

In designing a problem for use in student-centred problem-based learning, the instructor must consider both the format and the content of the problem. Selection of the format will depend on a number of factors, including the advantages and disadvantages associated with the various formats, the desired learning outcomes, the resources available to the instructor, and class size. Selection of the content of the problem will depend on the knowledge and skills that the instructor wants the students to develop.

(i). Format

Problems can be presented to students in a number of ways. While there are others, the following formats can be identified:

(a) Written fact problem containing complete facts: This is a format with which law teachers are familiar, having used it in examinations and exercises. It is the type of format generally associated with the lecture-based, case-based lecture, and problem methods of education mentioned above. Written problems can provide students with broad exposure to important legal knowledge as well as problem solving skills, since they can be tailor-made by the instructor. They also provide flexibility for both students and instructors, since they are readily available at any time unlike simulated or actual clients. However, written problems are likely to provide less student motivation and recollection. An important part of the problem solving process, the factual inquiry, is missed. Written problems will not provide students with practice in interviewing and counselling skills.

(b) Written fact problem requiring students to obtain complete facts: With this format, a very brief description of the problem is presented to the students, who are then required to obtain further factual information. This type of problem is generally associated with the modified case-based, problem-based, and reiterative problem-based methods of instruction. In the case of the modified case-based method, the students are more restricted in the inquiries and decisions they can make.

Students are given a book or a computer program that contains answers to factual questions they might ask a real client. Students direct

16. For example, students in criminal law might be told that their client has been charged with driving while having a blood alcohol content in excess of .08. The students then have to ask questions in order to obtain all other relevant facts. A book or computer program, which
the inquiries and receive information only in response to questions they raise. The advantages and disadvantages associated with this format are similar to those noted for the written problem containing all relevant facts. However, using this format it is likely that students will be more motivated, since they have greater control over the problem-solving process. The format also provides students with opportunities to develop their skills of inquiry. The time commitment required to prepare the necessary book or computer program represents a disadvantage to this format.

(c) **Simulated client:** Here a student in the class, or an actor, role-plays an actual client. This type of problem is generally associated with the problem-based and reiterative problem-based methods. The instructor prepares detailed role-play instructions for the simulated client. The students are given a brief description of the client's problem and it is up to the students to ask the client questions in order to obtain all relevant facts. Simulated clients provide greater student motivation, enhanced recall of knowledge gained from the experience, and the opportunity to develop interviewing and counselling skills. Problems can be designed to achieve specific outcomes. At the same time, this format allows less flexibility — clients are not always available — and may be more costly if the client is a paid actor rather than a student in the class. It can also be more time consuming, as the students must obtain the relevant facts rather than receiving them in a written, summarized form.

(d) **Real client:** This is the method used by legal clinics. It too is associated with the problem-based and reiterative problem-based methods. Its advantages and disadvantages are similar to those of the simulated client format, except that it can be more difficult to ensure that students gain exposure to all matters that the instructor might think desirable. This deficiency is often counterbalanced by the motivation arising out of the real need to solve the client's problem.

These basic formats can be modified in a variety of ways. For example, it is possible, though more difficult, for the instructor to play two roles in the classroom, teacher and simulated client. While the formats identified above are all factual, lawyer-client situations, this does not have to be the case. For example, if an instructor wants students to focus solely on a

contains answers to questions that students ask, is designed and made available to students. In the example given, one question that students should ask is what the client's blood alcohol content was. The book or computer program would contain a response to this question, among others. For examples of problems in book and computer mode which have been developed in the medical field contact Dr. Henry Mandin, Associate Dean (Education), Faculty of Medicine, The University of Calgary.
particular legal principle or policy, a general question can be posed.\textsuperscript{17} Students can be asked to simulate the role of a law reform commission and to hear representations from various interest groups. Alternatively students can be asked to take the position of a public interest advocacy group intervening in a particular matter.

(ii). \textit{Content}

Here the instructor needs to consider, first, the stages in the legal problem solving process that she wishes to emphasize. Next, the instructor must decide on the broad outcomes that she wants to achieve. For example, the teacher may want the students to identify issues in a particular area of law, such as drug offences, to describe the relevant legal principles in that area, such as possession and possession for the purpose of trafficking, to apply those legal principles to the problem at hand in order to determine likely legal results, and to critique the law in light of those results. The problem can then be designed to achieve these outcomes.\textsuperscript{18}

4. The Role of the Teacher in Student-centred Problem-based Learning

(i) \textit{General Approach}

The emphasis is on a student-centred approach. Barrows and Tamblyn point out that the “skills of the teacher in problem-based learning do not relate as much to his ability to dispense knowledge and understanding as an expert in the [area of law] as they do to his ability to help the student develop skills in ... reasoning, self-study and self-evaluation.”\textsuperscript{19} The instructor’s role shifts in this student-centred approach from foreground to background to midground, depending on the circumstances. The foreground is composed of problem design and group process management. Once the problem is in place the instructor’s main concern is to ensure that key points are managed and that an agenda for study is followed reasonably closely, but not so closely as to avoid serendipity.

Instructors must avoid the urge to lecture students.\textsuperscript{20} At the same time, they must be able to direct the students as they consider the problems,

\textsuperscript{17} For example, in a criminal law course students might be asked whether all defences should be codified in the Code.
\textsuperscript{18} For further suggestions on designing problems, see Schmidt, \textit{supra}, n. 4 at 15.
\textsuperscript{19} Barrows and Tamblyn, \textit{supra}, n. 4, at 108.
\textsuperscript{20} This is not to say that teachers should never provide any information to students. As students are going through the process and raising questions, a teacher must constantly decide whether she should provide an immediate answer to a question, or whether she should require the students to find out for themselves. Normally, the teacher will be more willing to provide information on minor points, less willing to provide information on the central issues students are trying to resolve, at least until the students have attempted to resolve the issues themselves first.
problem is particularly if students are having difficulty or are somehow going off-base. There is a fine line to be tread between intervening too much, on the one hand, and allowing the learning process to drift without purpose, on the other. Thoughtful questioning by the instructor is among the most important teaching techniques. Questions should be used to help students think through the problem. They should activate students' prior knowledge and help associate it with new learning. They should encourage students to think beyond the obvious. While lecturing is kept to a minimum, it may be useful for the instructor to think out loud about the problem from time to time. In this manner, she can raise issues that the students may have overlooked. An instructor thinking out loud also serves as a model for students. The instructor's strategic interventions in a well operating group may be relatively few and far between.

In order to reflect the teacher's role in SPBL, it seems useful to refer to the teacher by a name that does not suggest that she simply dispenses knowledge. We have chosen the word animateur as being the most descriptive, and will use that term throughout the remainder of this paper.21

(ii) Stages and Procedures in SPBL

When using a SPBL approach, the animateur will ideally be working with groups of 5 - 8 students.22 This is the group size that we assume in the following discussion. Of course it may be very difficult or impossible to have such small working groups. This problem, and what may be done about it, will be considered presently.

Barrows and Tamblyn identify seven stages in SPBL.23 The animateur's role in each of those stages will be discussed. The stages are:

(a) Identification of the objectives of the session; (b) Interaction with the

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21. We are indebted to Professor Diane Labreche, who suggested the word animateur. Other words that could be used include facilitator and preceptor. Facilitator seems to suggest that the teacher provides little or no direction in the learning process, which is not the case. Preceptor is too closely aligned with the word we are trying to avoid, teacher. Animateur suggests the right combination of student-centred learning and judicious direction.

22. With fewer than 5 students there is a greater burden placed on the students as they work through the problem, and there may be a less active discussion. With more than 8 students there is greater opportunity for one or more students to "drop-out" of the process, and rely on the problem solving efforts of others. Certainly it is possible for classes to be larger than 8 and still obtain the benefits of SPBL. Groups at the University of Limburg law school in Maastricht contain more than 8 students. See Moust and Nuy, supra, n. 3. A group of more than 8 students requires the animateur to be more vigilant in ensuring that all members in the group participate. If the group is larger than 10 or 12 members, it becomes extremely difficult to ensure that all members participate. Possible approaches to large groups will be considered in the section entitled "Implementation: Opportunities and Challenges".

23. Barrows and Tamblyn, supra, n. 4, at 71.
problem; (c) Identification of self-directed study questions raised by working with the problem; (d) Self-directed study; (e) Application of acquired information to the problem; (f) Review and synthesis of what has been learned, and, (g) Evaluation. These stages are distinct from the stages in legal problem solving referred to above. However, because learning occurs through solving problems, students go through the legal problem solving stages at the same time that they are going through these stages in SPBL. The relationship between the two processes is depicted in Figure 2. The stages identified will not always be followed in a neat linear fashion.

(a) Identification of the objectives of the session: The need for the animateur to identify the desired outcomes for the session has already been explained. Here we simply re-emphasize the importance of this stage.

(b) Interaction with the problem: The nature of the problem format dictates the nature of the interaction with the problem. The process involved in the simulated client format will be considered first, followed by a brief discussion of the process involved when a written problem is used.

The first step in dealing with a simulated client is to interview the client. One student in the group opens the interview. The student continues with the interview until the student or animateur thinks that an appropriate point has been reached to stop the interview and discuss what has transpired to that point. These breaks are called "time-outs", and can occur anytime the interviewing student, observing students, or animateur requests. For example, a time-out may be called if a student is unsure how to proceed.

During the time-out, the animateur should, through thoughtful questioning, have the students reflect on their thought processes, critique their approaches, and consider alternative approaches. The animateur might use the time-out to consider the interviewing skills that have been displayed and to have the students identify and discuss the preliminary approaches to the problem that they are considering. Discussion can be focussed on matters relevant to the session's objectives, but may also go beyond them. Questions commonly used by an animateur at this stage include: what do we have for facts? what were you thinking about then . . .? [referring to a particular point in the interview, especially one where the animateur was able to observe a change in the student's approach or thinking]; why did you ask that question; what issues or possible approaches to the client's problem were, or are you thinking about?; what additional information do you need to know?; what are you going to do now? The animateur might also state some of the matters she is thinking
Problem-Based Learning

about — "Here is what is going through my mind". This may help to
direct students without lecturing. The client should not be asked any
questions during a time-out, otherwise the interview process disintegrates.

During the time-outs, one student should make notes on a blackboard
under four headings: Fact Situation, Issues Arising, Solutions or
Hypotheses, and Learning Questions. Under "Fact Situation", the
student should note the important facts that have been brought out and
the additional facts that must be obtained in order to deal with the client's
problem. Under "Issues Arising", the student should note issues that the
group has identified with respect to the problem. Primarily these will be
legal issues, but ethical and non-legal issues can be noted as well. Under
"Solutions or Hypotheses", the student will note possible solutions or
ways of dealing with the client's problem. Under "Learning Questions",
the student should note those questions raised by the identified issues
which require further research. Questions relating to the facts are not
listed under this heading, but rather under the "Fact Situation" heading.
Placing these items on the board is an important part of SPBL: it provides
a focus for the group's discussion of the problem throughout the learning
process and it helps the group keep track of what it is doing. Figure 3
provides an example of what a blackboard might look like in the early
stages of dealing with a problem.

Once discussion in the time-out has been completed, "time-in" can be
called, and either the same or another student in the group can continue
with the interview of the client. The student will have learned from the
discussion during the "time-out", and can proceed with the benefit of
ideas drawn from the group. The process continues through the
preliminary consideration of approaches and inquiry strategy stages of
the legal problem solving process. Again, the students or the animateur
may call additional time-outs as the interview proceeds. Time-outs
should be kept to a minimum so as to avoid substantial disruption of the
interview process.

Eventually, the stage will be reached where the students have
exhausted their questions of the client. At this point a time-out should be
called so that all students may be involved in the final formulation of
issues arising from the problem. Many of the issues will have already
been identified in prior time-outs. Brainstorming techniques can be used
to ensure that all possible legal, non-legal, and ethical issues are identified.

24. In medical education, only three categories are usually used: Medical History, Hypotheses,
and Learning Issues. It seems useful to us to add the category of "Issues Arising" in legal
education, as issue identification plays an important role in legal problem solving.
25. Learning questions are considered in greater detail in the next stage, "Identification of self-
directed study questions".
After the brainstorming is complete, the students could be asked to consider which issues they would eliminate from the analysis and why; whether the issue statements could be improved in any way; to organize the issues in a logical manner; and, to consider how to resolve the issues. In terms of the legal problem solving process, this completes the issue identification stage.

If the students are working with a written problem that requires them to obtain all relevant facts, the process is very similar, except that there is of course no client interview. If the students are working with a written problem containing all the relevant facts, there is less interaction with the problem, because the students move more quickly to the issue identification stage.

(c) Identification of self-directed study questions (the "learning questions") raised by the problem: Students need to consider whether they have sufficient knowledge and information to analyze the issues arising from the problem. If they do, they may proceed with their analysis and develop solutions to, or ways of dealing with, the problem. If they do not, they must break to do the research necessary to analyze the issues. We have labelled the matters which need to be researched in order to analyze the issues raised as "learning questions". These "learning questions" may be identified during any time-out. After the client interview is complete, the final learning questions should be identified and added to the list on the blackboard. Responsibility for researching the learning questions may be (and often is) divided among group members. The animateur must be careful to keep the number of learning questions to a manageable level. If the number of questions starts to be overwhelming, the animateur can lessen the number by providing information to the group on some of the less important learning questions. Alternatively the group may decide to research only some of the questions identified.

(d) Self-directed study: Students do research to enable them to answer the learning questions that have been raised. Animateur assistance at this stage should be kept to a minimum. However, collaboration between group members and consultation with appropriate resource persons can be useful adjuncts to library research. It is through this research, and the sharing of information with the group in the next stage, that relevant knowledge is learned and synthesized in SPBL. In terms of the legal problem solving process, this completes the research phase.

(e) Application of acquired information to the problem: When the research is complete the students should return to the problem in order to complete their analysis of it. The analysis that occurs at this stage, which involves the application of statutes, cases, and policies to the issues at
hand, is of greater depth and sophistication than that undertaken at earlier stages. It should be done in the group, with the animateur again using thoughtful questioning techniques to allow the students to verbalize their thought processes.

This stage could start with the animateur or a student summarizing the fact situation and the main issues involved. The group's focal point will be the blackboard and the matters previously noted under the categories of Fact Situation, Issues Arising, Solutions or Hypotheses, and Learning Questions. Students should be asked to report the results of their research on particular learning questions. They should then be asked to analyze the client's problem with a view to developing solutions or ways of dealing with the problem. Based on those solutions critiques of the law may be offered. Questions that could be used during this stage include: what does the information we have obtained on the learning questions mean for our client?; what are you thinking about now?; what else do you want to know?; what are you going to do now? It is important at this stage for the animateur to have students articulate their reasoning. This will allow them to reflect on and learn from their analysis of the problem.

As each learning question and issue arising from the problem is dealt with, it can be "checked-off" on the blackboard. Once the analysis is complete and solutions to the issues have been fully developed, students could embark on a counselling session, if they are working with a simulated client. The animateur could assist the students with an examination of their counselling skills. If students are working with a written problem, they could consider how to counsel the client in the problem. This completes the legal analysis and counselling stages of the legal problem solving process.

(f) \textit{Review and synthesis of what has been learned}: Completion of the problem-solving process does not mean that the learning process is complete. If learning is to be maximized, it is important that the students reflect on how they approached the problem. They should integrate the knowledge acquired, and skills developed, into their existing bank of knowledge and skills. To do this, Barrows and Tamblyn suggest that the following questions be asked: what principles or approaches were learned as a result of working with the problem?; what new knowledge has been acquired in important areas of the law?\textsuperscript{26}

(g) \textit{Evaluation}: The evaluation of student performances is a matter of significance, but not one that can be covered in detail in this article.

\textsuperscript{26} Barrows and Tamblyn, \textit{supra}, n. 4, at p. 103.
Suffice it to say that the evaluative techniques adopted should test whether the students are meeting the educational objectives of the course. If SPBL methods are adopted, the instructor must test not only the knowledge of students, but also other outcomes expected from the SPBL approach. This could include reasoning skills, research skills, and communication skills. Unless this is done, students may concentrate only on the one or two educational objectives that they know will be tested, to the possible detriment of other objectives.27

5. Implementation: Opportunities and Challenges

Student-centred problem-based learning is a process designed to teach knowledge, reasoning skills, and communications skills. As such, it can be used in virtually any law school course. In fact, it is possible for an entire law school curriculum to be structured around SPBL, as is the case in the Faculty of Law at the University of Limburg.

While SPBL can be used in most courses, there are some courses for which it is particularly well suited. Legal research and writing is an example of such a course, as it is often difficult to motivate students taking the course. It could be used in an “Integrative Course”, where students work on a series of problems designed to integrate legal knowledge which has been taught in discrete courses.28

SPBL can be used in all three years of law school. It may be more difficult to use the approach in the very early days of first year law, since most students lack basic knowledge of law and legal reasoning. Once a very basic understanding of law and legal reasoning is acquired, SPBL can be employed. As has been noted, it can be used in conjunction with other teaching methods.

A variety of challenges face an instructor wishing to implement SPBL. Initially, it is a time consuming task to design appropriate problems. In order to help alleviate this problem, instructors could work together in designing problems and sessions. In any event, design time will be reduced substantially after the first time through a course.

SPBL may be viewed as an inefficient way of educating students. Problems tend to give rise to a number of divergent issues. If student

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27. Barrows, supra, n. 1. See also Barrows and Tamblyn, supra, n. 4, ch. 7 where the authors discuss in detail appropriate evaluative techniques for problem-based learning in the context of medical education.

28. The Faculty of Medicine at The University of Calgary uses SPBL in its second-year Integrative Course. The course is designed to integrate basic knowledge of organ systems, the clinical skills of communication, physical examination, and medical problem solving. An Integrative Course in law might be used to integrate knowledge and reasoning skills acquired in compulsory first-year courses. New knowledge and concepts can also be introduced through such a course.
efforts in analyzing problems are not focussed, students may dissipate their energies in pursuing relatively unimportant matters. This is where the animateur should provide assistance. Some "mini-lectures" by the animateur on minor points can help reduce the number of learning questions. In addition, the animateur can help direct the students to the more important learning questions raised by the problem. Dividing responsibility for researching learning questions among the group can be an efficient way to obtain the knowledge the problem is designed to impart.

Some students may not like SPBL, preferring to be lectured to instead. On the other hand, there should be many more students who prefer this type of learning. Large classes represent a challenge for anyone wishing to implement SPBL. If the number of students in a SPBL group exceeds 10-12, some students may not fully participate, and if they do not participate they do not benefit. How then can SPBL be used in law schools where larger classes are the norm? There are a number of ways of dealing with this problem. One is to confine SPBL to small classes. Another is to introduce SPBL to certain selected courses, such as Legal Research and Writing, Interviewing and Counselling, or an Integrative Course, and to devote the necessary resources to those courses.

However, even in large classes, steps could be taken to introduce SPBL. An instructor could use the lecture method to cover selected material and then cover other material by breaking the class into smaller, problem-based learning groups. Instructors teaching the same course in different sections might be able to pool their resources in a way that would allow the introduction of SPBL. Student animateurs could be used. For example, second year students might be asked to act as animateurs in first year courses. Clearly, such students would have to be well trained in their role, and some form of reward system might have to be introduced for them. In the end, student animateurs may not be a route that a faculty wishes to go. Sessional instructors could act as animateurs, but there will be a cost associated with this. Variations of SPBL could be used to introduce some elements of the process. For example, an instructor in a large class could give the class a very brief description of a problem. The instructor could then change roles and play the client or another individual mentioned in the problem. Students in the class would then ask questions to obtain the information relevant to the problem. Once the students obtained the information they considered relevant, the instructor could lead a discussion on the exercise that had just transpired. In this way, the students could consider the inquiry strategy they had adopted for the problem.
V. Conclusion

As legal educators react to the criticisms levelled at their work not only by students, but also by higher educators, they have begun to appreciate the need to acquire knowledge and understanding of educational principles and practices. Adult learning is a complex, varied, and critically important phenomenon. Student-centred problem-based learning provides an opportunity to enrich and redevelop the law school curriculum in order to meet the challenges that have been set for law learning generally. We have come to appreciate and value the direct teaching of intellectual and applied skills, including analysis, evaluation and problem solving, interviewing, counselling, negotiation, advocacy, writing, drafting, and so on. We have come to appreciate that knowledge is not itself the most powerful of all resources open to a practising academic or lawyer. Rather, as knowledge grows and develops and itself becomes unmanageable, we have come to appreciate the importance of acquiring the intellectual skills and abilities necessary to acquire knowledge, process information, solve problems and evaluate results.

Student-centred problem-based learning offers opportunities to acquire intellectual skills and abilities through the process of acquiring knowledge and information. It relies heavily on self-development, self-direction, and personal growth, and, therefore, on the potential for independence, autonomy, and the ability to learn. A legal education accomplishes not nearly enough if it only enables one to learn about the practice of the present. SPBL is a strategy for a future-minded legal education: through it students acquire independence of mind, self-confidence, and the ability to work cooperatively and interdependently with others. SPBL will not solve all of the challenges that face legal education, but it does have much to offer.