

# Teaching Contract Law Using Experiential Learning Methods

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## Abstract

This study proposes experiential learning methods that can be used for delivery and assessment of contract law course to undergraduate students. To achieve this aim, this study explores the experiential learning methods currently in practice in teaching contract law to law and non-law undergraduate students. This study also synthesizes and maps the identified methods to Kolb Experiential Learning Cycle. PRISMA Extension for Scoping Reviews (PRISMA-ScR): A checklist and Explanation guideline was used to report this study. The search was based on a Google Scholar and four primary academic databases: ACM Digital Library, EMERALD, PROQUEST and SCOPUS. Of the 34 studies that met the inclusion criteria, 133 essential original constructs were collated, and seven methods were derived. Role plays, and simulation methods record the highest percentage of collated original constructs (39%, n=52) followed by fieldwork and clinical (24%, n=32), case-based (11%, n=15), writing task (8%, n=11), problem-based learning (8%, n=10), street law (n=7) and seminar-based (5%, n=6). Twenty-three new items were synthesised for experiential learning methods, which may guide the teaching of contract law using experiential learning to undergraduate students. This study adds significant value to the corpus of knowledge in teaching contract law to undergraduate students by providing evidence-based experiential learning methods. The newly synthesised items in the methods can be readily used as an initial guide by the faculty members during the development of the contract law course syllabus for undergraduates. They are also valuable for academics planning to invoke experiential learning methods in teaching contract law to undergraduate students.

**Keywords:** Contract Law, Teaching, Experiential Learning, Pedagogy of Law

## Background

### *Teaching Contract Law*

Contract law is one of the traditional courses offered in law school, along with torts, property, criminal law, and civil procedure (Edwards, 1992). Contract Law is a first-year core course in most law schools, taught to undergraduate law students in most law schools' first and second semesters (Franklin, 2016). As for the non-law students, contract law is taught as part of

business, commercial, or company law. Like other traditional law courses, contract law is exceptionally intricate and requires subject matter-specific pedagogies to hone students' analytical and critical thinking (Franklin, 2016). Under the existing pedagogy, contract law is taught through substantive provisions in the statutes and abstract legal theories, rules and principles derived from judicial precedents (Lewis, 2000).

The traditional method of legal education in common law, such as in Malaysia, involves lectures and tutorials. The lecture method of teaching generally involves large groups of students listening to a teacher communicate content (Taylor et al., 2012). The black letter law (doctrinal) approach in lectures and the Socratic-questioning method in tutorials are long-standing traditions in law schools (Kariyawasam and Low, 2014). Traditional education in many law schools also adopts the Langdell case method, where students learn theory in formats perfectly packaged by a case note editor, isolating the complexity of practice and the emotional or human impact of a case (Brown, 2013).

The traditional method of teaching law, better known as "doctrinal legal education," has become the standard in law school curricula. Doctrinal legal education employs a "chalk and talk" method, with large classes (over 50 students) and frontal lecture-style content delivery (Smyth, 2016). Traditional law curricula emphasise robust classification, with each law course standing alone and isolated from the others. For example, contract law is taught without reference to procedural, property, or employment law principles. Students emerging from such curricula find it notoriously difficult to connect the subjects studied in these previously strongly classified study units with the complex, messy problems frequently encountered in real life.

Whilst experiential learning methods were introduced as early as 1971, calls for experiential learning to be officially adopted in law schools only started to pick up a decade later. Proponents of experiential learning assert that the implementation of experiential learning methods will move law students to a higher, more evolved level of thinking (DeGroff, 2006). In support of this argument, the American Bar Association (ABA) standards require six credit hours of experiential coursework—eight under the Law School's quarter system, that may be fulfilled through qualifying clinic work (Gillespie, 2017).

Law schools have increased the experiential learning content in their teaching and learning methods to keep up with the experiential learning trends by incorporating mootings, mock trials, clinical legal education, and externships into their curricular structures (Smyth, 2016). A contract law course is ideal for introducing experiential learning, as contract law requires drafting and negotiation skills that can only partially be taught through lectures and tutorials (Siedel, 2017; Gillespie, 2017). Despite the need to incorporate experiential learning methods in teaching contract law, contract law remains among the core subjects delivered and assessed using traditional doctrinal teaching in most law faculties, including Malaysia.

### ***Experiential Learning***

Experiential learning means learning from experience or learning by doing. Experiential learning integrates theory and practice by simulating real-world situations through case studies, simulations, experiments, or other hands-on activities (Lord, 2022). It also refers to learning outcomes that result from an activity or program in a non-classroom setting related

to the academic classroom. It is part of active learning methods (Dimatteo, 2007), as experiential education first immerses learners in an experience and encourages reflection about the experience to develop new skills, attitudes, or ways of thinking (Chan, 2022).

The primary purposes of experiential learning are better employability opportunities or attaining work skills; application of theory to the real world; enhancement of student learning; personal development; and community engagement (Toledano-O'Farrill, 2017). Compared to lecture-based learning, which leads to passive learning, experiential learning is participative, interactive, and applied. Experiential learning allows contact with the environment and exposure to highly variable and uncertain processes. It touches upon the real world and helps us learn about what is possible in textbooks but is only sometimes implemented in the real world (Chan, 2022).

Theoretically, experiential learning conceptualises experience as the stimulus for learning and highlights the need for different types of experiences (Heart, 2022). David Kolb, an American educational theorist, describes the process of experiential learning and how knowledge is created through experiential transformation, which he defines as experiencing, reflecting, thinking, and acting (Damschroder, 2017). The four quadrants of the Kolb Experiential Learning Cycle are Concrete Experience (experiencing), Reflective Observation (reflecting), Abstract Conceptualization (thinking), and Active Experimentation (acting).

In terms of delivery, experiential learning is student-centred as opposed to teacher-centred learning in traditional black letter methods. Experiential learning reduced lecture intensiveness in the doctrinal legal education system by increasing focus on clinical legal education, externships, and other place-based learning. Experiential learning can be divided into two major categories: –those occurring inside the classroom, often during class time, known as classroom-based learning, and those occurring outside the classroom, known as field-based experiences. Classroom-based learning includes role-playing, games, case studies, simulations, presentations, debates, discussions, hands-on technology, and various types of group work (Chan, 2022; Damschroder, 2017; Binsted, 1981).

Field-based learning includes experiences such as field trips, internships, clinical experiences, practical fellowships, apprenticeships, student exchanges, and practicums where the student can apply those concepts and skills learned in the academic setting to a "real-life" situation (Smyth, 2016; Murphy, 2013; Davis, 1988). Field-based learning activities are further divided into work-based learning and service-based learning. The former includes experiences such as internships, practicums, and clinical experiences, while the latter includes experiences in community services, voluntary work, and legal aid (Paisey et al., 2010; Davis, 1998).

### **Methodology**

The study adopts scoping review as its main methodology approach. Scoping methodology involves identifying relevant studies, selecting the study, and determining the inclusion and exclusion criteria. Qualitative data from the studies that meet the inclusion and exclusion criteria will be charted, collated, summarised, and reported in this study. Scoping review was performed according to the guidelines set forth by the Joanna Briggs Institute and the Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) for the conduct and reporting of scoping review.

### *Research Question and Research Objective*

A research question was formulated to assist the scoping review process. The scoping review's research question is formulated based on Population, Concept, and Context (PCC) framework; Population: Undergraduate students, Concept: Experiential learning, and Context: Contract Law. Based on the PCC framework, the primary research question for this study is: How should the teaching of contract law to undergraduate students using experiential learning methods be employed? Based on this research question, the objective of this study is

- to explore the delivery and assessment of teaching contract law to undergraduate students using experiential learning methods.

### **Study Design**

This study is designed to map the literature on a particular topic, explore the underpinnings of a research area, and identify and clarify the key concepts, theories, sources of evidence, and gaps in the research using the scoping review method. A scoping review is a common approach for mapping broad topics. This study's topic fits these criteria because the literature on experiential learning is broad and diverse and has yet to be comprehensively reviewed to answer the research question.

### **Identification of Relevant Studies**

This study reviews articles and online materials regarding experiential learning published from 1971 to 2022. 1971 was selected as the starting point since it was the year experiential learning methods were initiated (Kolb & Kolb, 2011). The article search was conducted in December 2022 using UiTM Tun Abdul Razak Library (PTAR) E-Resources and Google search engine. PTAR E-Resources provides access to 38 online databases that contain e-journals, e-books and e-newspapers. A comprehensive search for relevant articles and online materials was performed using four online databases accessible via PTAR e-resources, i.e., ACM Digital Library, EMERALD, PROQUEST and SCOPUS. These four online databases were selected because they are reliable and up-to-date research databases (SCOPUS), contain more than 175,000 articles since 1951 (ACM), contain the most comprehensive collection of dissertations and theses from around the world (PROQUEST), and contain journals, books, and case studies on multidisciplinary research and practices in education (EMERALD). Journal articles, books, and conference papers were among the published materials searched under the scoping review. This scoping review also included articles and online materials from commentaries, opinion pieces, blogs, and online materials. The terms searched were 'teaching', 'contract law,' and 'experiential learning.' Boolean logic ('OR,' 'AND,' and 'NOT') was used to perform reference mining, and MeSH terms were used to improve the search.

### **Study Selection**

The selection process began with extracting articles and online materials based on their titles. A single reviewer HNMH extracted the articles and online materials from the Google search engine and four selected online databases. Another reviewer (AM) conducted a title and abstract screening process using pre-determined variables. Articles and online materials with titles and abstracts that contain relevant variables were downloaded. Only full-text articles and online materials were downloaded. References for these full-text articles and online materials were managed using EndNote® software. Later, the articles and online materials were assessed in full text by ZZMZ using pre-defined inclusion and exclusion criteria. Articles

and online materials meeting the inclusion criteria were assigned to a group labelled "Qualitative Analysis". In contrast, articles and online materials that fall under the exclusion criteria were removed from the reference list.

### **Inclusion Exclusion Criteria**

The study selection process requires the articles and online materials to meet the inclusion criteria as follows: i) English-written articles and online materials, ii) Focusing on contract law; iii) Focusing on undergraduate students (diploma, bachelor); iii) Addressing experiential learning delivery methods (seminar, workshop, tutorial); iv) Addressing experiential learning assessment methods (assignment, role-play, industrial training, and others). The exclusion criteria for this study, on the other hand, are as follows: i) the article does not address the methodological aspects of experiential learning (theory only); ii) the article is not related to contract law; iii) the article focuses on postgraduate study levels (master's, PhD); v) the article focuses on continuous professional development programs (practising lawyers, in-house lawyers); and vii) the article focuses on the micro-credential program for adult.

### **Data Synthesis**

This review defines the constructs as the domains used to teach contract law using experiential learning methods. The experiential learning constructs were identified verbatim by screening and transcribing the texts of the primary articles and online materials. Before synthesising the constructs, all items were labelled according to specific item numbers obtained from each primary study/resource. For constructs synthesis, all the extracted verbatim constructs were first sorted according to common themes. The themes were then named to form the concepts for experiential learning. The constructs within each concept were also synthesised through rewording and merging to remove duplicative constructs. The synthesis was performed by a single review author (HNMH), and the consensus was obtained via discussions with the other two review authors (AM and ZZMZ). The final framework was presented with the newly synthesised constructs under each concept.

### **Results**

This scoping review identified a total of 7442 potentially eligible articles and online materials published between January 1971 and December 2022. The results were generated across four databases, namely ACM Digital Library (n=2077), EMERALD (n=853), PROQUEST dissertation and thesis (n=926), and SCOPUS (n=586). In addition, the results were also generated from the Google search engine (n=3000). Of these, 331 articles and online materials were identified and removed due to duplication. The titles and abstracts of the remaining 7111 articles and online materials were screened. Following the next phase of the screening process, 7042 articles and online materials were eliminated after the title and abstract screening for the following reasons: Unrelated to topics n=6239; Not published in English n = 4; There is no full text or abstract, and the sample size is only 799. The full texts of 69 papers were further reviewed and compared to fit the inclusion and exclusion criteria model. After the full-text screening process was completed, a total of 34 articles and online materials were excluded for the reasons listed below: Not addressing the teaching component of experiential learning (n = 17); non-law degree course or program (n = 9); not related to contract law (n = 6); postgraduate studies level (n = 1); continuous professional development program (n = 1). The study selection process based on the PRISMA-ScR flow diagram is illustrated in figure 1 below.

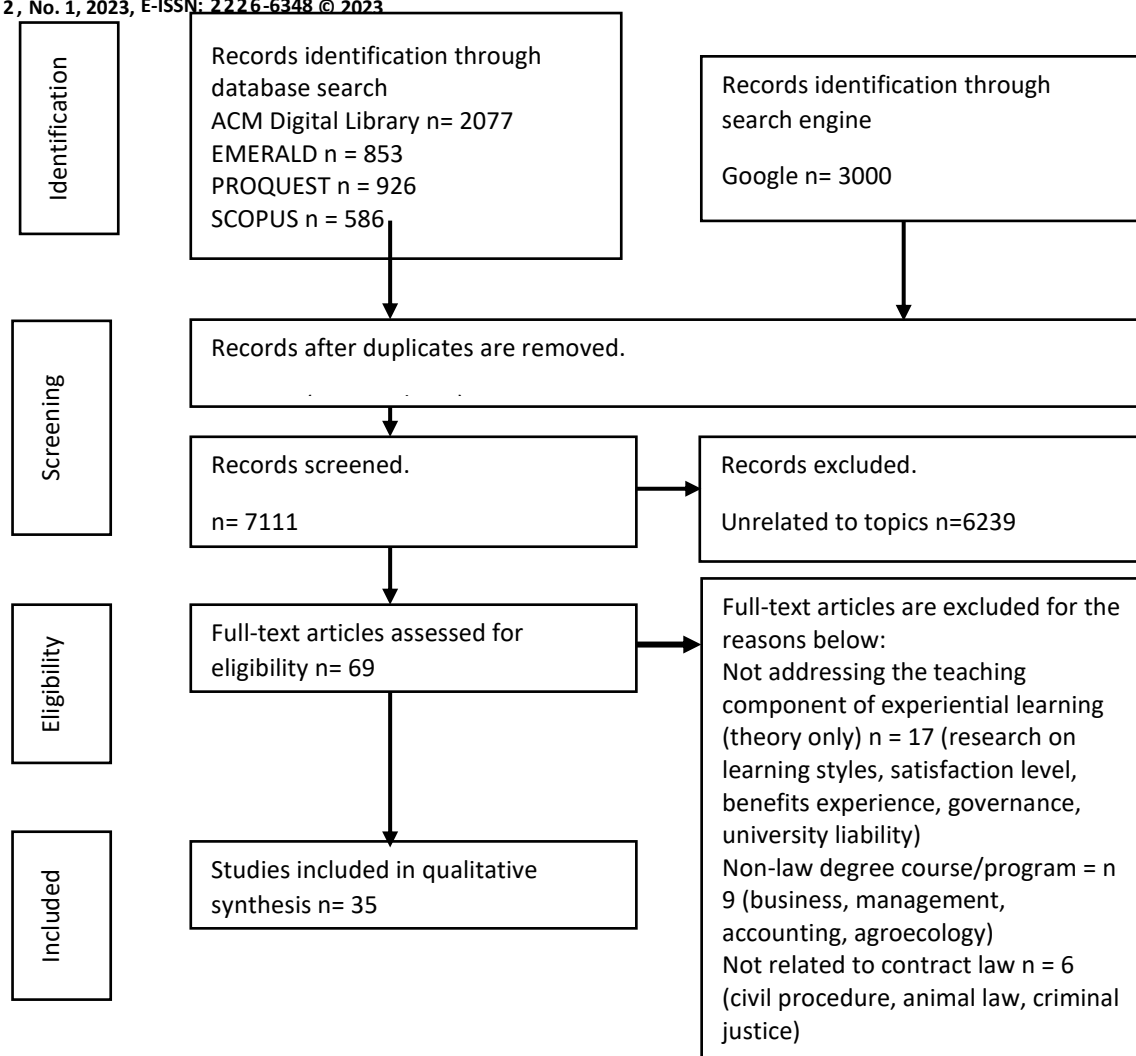


Figure 1: Study selection process based on PRISMA-ScR Flow Diagram

The characteristics of articles and online materials that meet the inclusion criteria were tabulated using a pre-defined domain of interest as in Table 1. The articles and online materials were charted according to geographic area, article type, study design and area of study. These were reported using descriptive statistics. The reference types of the articles and online materials are classified as follows: book (n=14%), conference paper (n=1, 3%), electronic article (n=3, 9%), journal article (n=22, 63%), report (n=1, 3%), thesis (n=2, 6%) and web page (n=1, 35). The majority of the articles and online materials originated from North America (n=19, 54% followed by Asia (n=7, 20%), Europe (n=6, 17%), Oceania (n=2, 6%) and South America (n=1, 3%). Of these, 16 (46%) articles and online materials adopt a critical analysis approach, while others adopt case study (n=6, 17%), survey (n=5, 14%), interview (n=3, 9%), a systematic review (n=3, 9%), comparative study (n=1, 3%) and mixed-mode approach (n=1, 3). The area of the studies covers a broad range of experiential learning methods ranging from clinical legal programs (n=6, 17%), mootings (n=1, 3%), role play (n=2, 6%), problem-based learning (n=3, 9%), negotiation exercise (n=3, 9%), writing legal memorandum (n=1, 3%), simulation (n=2, 6%), and mock arbitration (n=1, 3%). Besides that, study areas also covered flipped classroom approach (n=2, 6%) and blended experiential learning (n=14, 40%). Academic researchers authored most articles and online materials. Table 1 below summarises the characteristics of articles and online materials meeting the inclusion criteria.



Table 1

*Characteristics of articles and online materials meeting the inclusion criteria.*

<b>Domain of interest</b>	<b>N= %</b>
<b><i>Geographic area</i></b>	
Asia (Malaysia, India, Israel, HK, Singapore, Jordan)	7 (20%)
Europe (UK, Ireland)	6 (17%)
North America (US, Canada)	19 (54%)
Oceania (NZ)	2 (6%)
South America (Colombia)	1 (3%)
<b><i>Reference type</i></b>	
Book (including book section, edited book)	5 (14%)
Conference paper	1 (3%)
Electronic article	3 (9%)
Journal article	22 (63%)
Report	1 (3%)
Thesis	2 (6%)
Web page	1 (3%)
<b><i>Study design/methodology/approach</i></b>	
Survey	5 (14%)
Interview	3 (9%)
Comparative study	1 (3%)
Critical analysis	16 (46%)
Case study	6 (17%)
Mixed mode: Observation and survey	1 (3%)
Systematic review	3 (9%)
<b><i>Area of Study</i></b>	
Blended experiential learning	14 (40%)
Clinical Legal Programs	6 (17%)
Mooting	1 (3%)
Role-play	2 (6%)
Problem-based learning	3 (9%)
Negotiation exercise	3 (9%)
Writing legal memorandum	1 (3%)
Flipped classroom approach	2 (6%)
Simulation	2 (6%)
Mock arbitration	1 (3%)

ATLAS.ti 8 qualitative data analysis software was used to code and tag the original constructs. Of the 34 eligible articles and online materials, 133 essential original constructs were collated. Original constructs within the context of this study are defined as the experiential learning methods used in teaching and learning contract law to undergraduate students. Of the 133 original constructs, 77 were identified as using the classroom approach, while 50 used the fieldwork approach—six other original constructs used a mix of classroom and fieldwork teaching approaches. Subsequently, two broad categories of experiential learning approaches for classroom teaching were established: individual-based learning (n=45) and group-based learning (n=32). As for the fieldwork teaching approach, three experiential learning

approaches were established: work-based learning (n=19), service-based learning (n=27) and cultural-based learning (n=4). As for the mixed-modes teaching approach, the learning approach comprised work-based and group-based learning (n=4), service-based learning, and individual-based learning (n=2).

The original constructs were modified through a process of rewording and merging. Subsequently, seven methods for experiential learning were established: problem-based learning, case-based, role plays and simulation, writing task-based, seminar-based, fieldwork and clinical, and street law. In general, 52 items were categorised under role plays and simulation methods followed by fieldwork and clinical (n=32), case-based (n=15), writing task-based (n=11), problem-based learning (n=10), seminar-based (n=6), and street law (n=7). Role plays and simulation methods record the highest percentage of collated original constructs (39%, 52/133), followed by fieldwork and clinical (24%, 32/133), case-based (11%, 15/133), writing task-based and problem-based learning record 8% (11/133 and 10/133) respectively. The least percentage for experiential learning constructs recorded in literature are street law (5%, 7/133) and seminar-based (5%, 6/133). The identified synthesis construct for teaching contract law using experiential learning methods is summarised in Table 2 below.

Table 2

*Identified synthesis construct for teaching contract law using experiential learning methods.*

Teaching approaches	Learning approaches	Learning Methods
Classroom n = 77 (Teacher-centred teaching approach)	Individual-based learning n=45	Problem-based
		Case-based
		Role-Plays and Simulation
		Writing task-based
	Group-based learning n=32	Seminar-based
		Role Plays and Simulation
Fieldwork n=50 (Student-centred teaching approach)	Work-based learning n=19	Fieldwork and Clinicals
	Service-based learning n=27	Street Law
	Cultural-based learning n=4	Fieldwork and Clinicals
Mixed-mode n=6 (Teacher-centred and Student-centred approaches)	Work-based & group-based learning (n=4)	Fieldwork and Clinicals
		Writing task-based
	Service-based & individual learning (n=2)	Street Law
		Seminar-based

These methods were further synthesised, resulting in the development of 23 newly synthesised constructs for teaching contract law using experiential learning methods to undergraduate students. Table 3 below summarises the newly synthesised constructs for teaching contract law using experiential learning methods.



Table 3

*New synthesised constructs for teaching contract law using experiential learning methods.*

No.	Learning Methods	New Synthesised Constructs
1.	Role plays and simulation. (n=7 31%)	1. Client consultation 2. Debate on legal issues 3. Case discussion 4. Mooting 5. Mock trial /mock arbitration 6. Negotiation exercise 7. Role-playing
2.	Fieldwork and clinical (n=8, 35%)	1. Internship 2. Practicum 3. Clinical 4. Apprenticeship 5. Legal aids centre 6. Interviewing and counselling clients 7. Student exchange 8. Fellowship
3.	Case-based (n=1, 4%)	1. Case study
4.	Writing task-based (n=3, 13%)	1. Writing personal journal 2. Writing legal memorandum 3. Transactional drafting
5.	Problem-based learning (n=1, 4%)	1. Problem-solving
6.	Street law (n=2, 9%)	1. Teaching Law to the community 2. Raising legal awareness in the community
7.	Seminar based. (n=1, 4%)	1. Oral presentation

### Discussion

This section discusses the delivery and assessment methods and the anticipated learning outcomes of teaching contract law using experiential learning to undergraduate students. The learning outcomes are benchmarked upon Kolb's Experiential Learning Cycle. At the outset, resource persons and senior lecturers for contract law courses at the Faculty of Law UiTM were consulted to formulate a proposition on teaching contract law using experiential learning methods to undergraduate students. The resource person and the senior lecturers consulted for this study have taught contract law to undergraduate students between 10 to 20 years.

#### *Role Plays and Simulation*

Role plays, and simulations function as group-based or individual-based experiential learning tools as the students perform online or face-to-face mooting, client consultation, contract negotiation, mock trial/arbitration exercises and legal debate. Role play and simulation learning methods exposed the students to the abstract conceptualisation and active experimentation learning cycles. In the former, role plays, and simulation activities involve

using theories, logic, and ideas to understand contractual issues or situations. In the latter, role plays and simulation lead to active experimentation as the students act by reapplying and testing what they learnt from the knowledge they gained from lectures and tutorials. Students undergoing role plays and simulation activities would take a practical approach and be concerned with what works, as opposed to simply becoming an observer (Fletcher, 2019)

To teach contract law using experiential learning methods, contractual issues and problems can be incorporated into mooting, mock trial/arbitration, client consultation or negotiation exercises. Role plays, and simulation activities use the classroom and moot court for meaningful activities that require the participation of all students in a collaborative, experiential teaching environment (Castro and Aguirre, 2020). Teaching contract law using role plays and simulations is delivered by instructing students to act out roles or improvising scripts, hypothetical contractual issues, or situations in a realistic manner. The students must research and prepare oral submissions in support of their client to the contractual disputes before presenting the case they have prepared in a courtroom or meeting room environment (Fletcher, 2021).

Role plays and simulation are student-centred learning that enables learner-oriented assessment. Formative assessment is conducted using students' self-assessments and peer assessments. The students will self-assess in the form of the students' own post-moot /mock trial/negotiation reflections. Formative feedback will also be provided by the lecturer, tutor, or mooting/mock trial/mock arbitration judge, to each student following each role play or simulation session (Fletcher, 2021). Law practitioners who are experts in contract law could participate in the assessment process, playing the roles of judges, supervisors, advisors, evaluators, or mentors (Davis, 1998).

#### *Fieldwork and Clinical*

Fieldwork and clinical learning are non-simulated experiential learning activities that enhance the cognitive-intellectual aspects of the students (Villarroel et al., 2020). Fieldwork and clinical learning could take place as work-based learning, service-based learning, or cultural-based learning. Fieldwork and clinical learning provide substantial experience to the students as they will be involved with real clients and real legal situations. Fieldwork and clinical learning also encourage reflective observation as they require the students to observe and reflect by watching their mentor/ supervisor and then objectively thinking about what happened.

In teaching contract law, the students who participate in fieldwork and clinical projects learn how to make sound professional judgements in real-world situations through an externship, clinical or apprenticeship placements. Teaching contract law using fieldwork and clinical experiential learning can be implemented by assigning students to a mentor/supervisor who shares their client's consultation and contracts negotiation sessions with the students. The students will either participate in or observe the consultation or negotiation sessions. As part of the reflective observation learning cycle, the students can discuss with their mentor/supervisor the lessons they learned from participating in or observing the consultation/negotiation sessions.

Instead of summative assessment, formative assessment can be used to assess the student's performance in fieldwork and clinical-related activities. The formative assessment is

conducted by giving feedback to the students and providing them with details of what to do and what they can do to improve their performance (Antwi and Kyei, 2015). Client feedback can also help assess the students' performance (Mahasneh and Thomas, 2012). In addition, the self-assessment method can be used by asking the students to compare their performance with the standard and skills required in conducting the interview, giving legal advice, or drafting contracts. Alternatively, students can be asked to write reports about their activities in the fieldwork and clinical projects.

#### *Case-based*

The case method is a participatory, discussion-based way of learning where students gain critical thinking, communication, and group dynamics skills. The case-based method uses real or hypothetical case scenarios and provides students with narratives, situations, or statements that present unresolved and provocative issues, situations, or questions (Dhar and Dhar, 2018). The case study method exposed the students to active experimentation and reflective observation learning cycles. In the former, students apply the theoretical concepts to analyse the case (Deneen, 2021). In the latter, students will be able to assess the information provided in the case under study and identify the element relating to each theory (Mattera et al., 2014). The case study method also exposes the students to abstract conceptualisation as the students will be able to review and critique the case under study.

The case study activities for teaching contract law may use reported cases on contract law that contain facts and grounds of judgment that are useful for doctrinal analysis. The case study may also use an ongoing case still on trial or at the appeal stage where the results still need to be clarified, where the student is required to predict the case based on the existing fact of the case. In addition, a case study may also use hypothetical case scenarios that reflect real-world situations in dealing with contracts for the students to analyse, give advice and make conclusions. Students might engage with a complex, lengthy contract case as part of a semester-long case study method.

Case-based assessment (CaBA) method can be used to assess the student's performance in the case-based method. CaBA introduces students to real case scenarios they may encounter professionally and personally (Deneen, 2021). A case related to contract law can be set up for the students to be assessed on the specific skills or learning cycles the assessment targets. The case used for assessment should be novel, where the student should not have encountered the same case previously. A previously encountered case can also be used, but in a way that requires the students to respond in a novel way. The case should be suitable for undergraduate students' level and contain enough facts and issues for the students to conduct a case analysis (Colker et al., 2018).

#### *Writing Task-based*

Writing task is classroom-based experiential learning that improves the students' abstract conceptualisation ability (Dimatteo et al., 2007). The students undertaking a writing task would rely on their thoughts and feelings in their arguments and opinions. Students undertaking a writing task must combine the theoretical legal knowledge they acquired and the practical skill of drafting contracts (Heart et al., 2022). The writing task for contract law is conducted by asking the students to draft a contract for a specific scenario assigned by the lecturer that employs the principles taught in class according to the principles of contract law.

Students are expected to apply the law and material on how to draft contracts learned in a frontal and online manner.

Writing task activity is best delivered using flipped classrooms as it will give students more in-class time to practice hands-on exercises (Naumczyk et al., 2018). Like other experiential learning methods, formative assessment is used to assess the student's performance in writing tasks. Writing evaluation criteria may be undertaken by assigning a band score based on the students' task achievement/response, coherence and cohesion, and lexical resource. Grammatical accuracy may be included in determining the band scores, as using correct grammar in various sentence structures is part of legal writing skills. In a contract writing exercise, poor grammar, repetition of terms, confusing provisions, or missing standard clauses in a contract drafted by the students can be corrected and addressed by the lecturers as part of the writing task learning exercise (Dimatteo et al., 2007).

### *Problem-based Learning*

Problem-based learning can be used to teach students the rules of contract law and the process of implementing these rules in the real world of business (Dimatteo et al., 2007). Problem-based learning creates the opportunity for developing relevant skills in solving contractual problems, which would otherwise be excluded from the classroom. The students undertaking problem-based learning are expected to devise or propose one or more solutions or resolutions to problems or dilemmas presented in a realistic story or situation. Before solving the problems, the students need to conceptualise the issues and the problems in problem-based learning (Harner and Rhee, 2014).

Problem-based learning exposed the students to abstract conceptualisation and active experimentation learning cycles. The students dealing with a problem-based question need to understand the facts and identify the issues and the relevant law to the fact issue. Students undertaking case-based analysis are expected to make connections between what they learn in the classroom and how they will apply their knowledge to identify the issue and analyse the law relevant to the contractual problems. Students will also apply the theories and principles of contracts they learn during lectures and tutorials to devise one or more solutions or resolutions to problems or dilemmas presented in a realistic story or situation. The students must also apply the law and principles governing contracts to the facts before making a conclusion or providing legal advice/solution to the client (Hung, 2013).

Problem-based learning can be delivered using flipped classroom whereby the students will be given in advance contractual problems to be solved before presenting the proposed solutions in the classroom (Sanches et al., 2021). The students can be assigned individually or in groups to solve a specific problem. In a group assignment, the students need to talk to each other about the problem and identify and explore related concepts to solve the contractual problems given to them collaboratively. Regarding assessment, problem-based learning methods use formative assessment to track and monitor the student's progress in learning contract law through experiential learning. Problem-solving abilities of the students would be assessed, and the legal problem to be solved by the students would progressively become more complex so that students are forced to learn the legal research process (Naumczyk et al., 2018). Summative assessment can also be used as problem-based questions can be incorporated into a test or final examination papers.

### *Street Law*

Street law is active, and experiential learning focuses on the real-life experience of a legal advocate (Fletcher, 2019). Street law clinics can be used to teach the students to educate the public on the issues pertaining to contract law. It may be in the form of teaching contract law to the community or raising legal awareness in the community. Street Law provides substantial experience to the students as they will personally involve with people in everyday situations. Active engagement with the public during street law activities improved students' ability to transfer legal information to non-lawyers and enhanced their oratory and presentation skills as lawyers (Bracken, 2022).

The learning outcomes of the street law method are best assessed using formative assessment. The students will be given an opportunity to assess the experience they gained from their participation in street law. The assessment can also be done by observing or recording the students during the street law activities. Besides self-assessment, the lecturer may assess students' street law performances through direct observation or video recording (Mahasneh and Thomas, 2012).

### *Seminar Based*

Seminar-based method refers to a structured group discussion in the form of an oral presentation. The seminar-based method may take forms of dialogue, forums, or class presentations on the topic to be chosen by the students or the lecturers. The seminar-based method focuses on interactive, experiential learning as students receive, take in and respond to the questions (Naumczyk et al., 2018). The seminar-based method enables the students to enhance their abstract conceptualisation ability as they are required to present material on contract law and answer questions posed by their classmates or lecturers.

The seminar method is a classroom-based experiential learning that uses various media to teach contract law (Berman, 2012; Nayar and Kou, 2019). A blended and hybrid form of learning can promote a more effective seminar presentation as generation Z students are more engaged with the use of blended learning tools and enjoy a multi-media learning experience (Batty, 2013). Formative assessment can be conducted by giving grades to the students based on the level of preparation, as well as the presentation's clarity, thoroughness, or persuasiveness (Mahasneh and Thomas, 2012).

### **Conclusion**

Extant literature indicates a growing trend in using the experiential method in teaching law courses to law and non-law students. Experiential learning has been used to supplement the traditional doctrinal/black letter and Socratic methods in teaching contract law to undergraduate students. Instead of the conventional frontal lecture and tutorial sessions, delivery and assessment of law courses can benefit from experiential learning methods. Field-based and classroom-based experiential learning methods can be used to deliver and assess the student's understanding and skills in various law courses. Through experiential learning, practice-ready law graduates, as demanded by legal firms, can be achieved. Furthermore, experiential learning methods may reduce learning by rote and memorisation, particularly for theoretical courses such as contract law.

Despite high optimism in teaching contract law using experiential learning, several issues must be resolved to ensure the smooth implementation of experiential learning methods.

The primary issue is the academic staff's readiness to teach contract law using experiential learning methods. Most law faculties have a small number of qualified lecturers to practice, and only a few have practised law for any period. To ensure effective teaching of contract law using experiential learning methods, the lecturers must be able to combine legal theory with a practical understanding of the practice of law. The faculty needs to increase the number of lecturers with significant legal practice experience. Alternatively, the faculty needs to hire practising lawyers to assist the lecturers in delivering experiential learning.

Second, experiential learning requires additional financial resources at a time when the law faculty in most universities are already required to deliver more with less allocation. Teaching contract law using experiential learning methods requires additional facilities such as a moot court and legal office. The legal clinic would need access to a copying machine, scanner, printing machine, phone, and computer. A designated consultation room for confidential client meetings and files is also required to create a realistic legal clinic environment. Street law learning may involve some expenses, such as organising forums, talks or workshops (Mahasneh & Thomas, 2012). The faculty needs to find a way to raise a sufficient amount of money to run their legal clinic and street law programme. The universities may have to establish an endowment fund or may be forced to raise tuition fees to cover the expenses.

Third, experiential learning methods are time-consuming as it takes time to prepare role play and simulation, case studies, and problem-based questions. Experiential learning requires more work from the students and lecturers and may take away the time usually spent by the students/lecturers to cover numerous topics in the classroom (Harner, 2014). Out-of-classroom experiential learning also needs to be equally assessed with in-classroom experiential learning to prevent the students from treating the former as less critical (Lewis, 2000). The lecturers must develop out-of-classroom assessments and rubrics for formative assessment to fairly assess students' performance in fieldwork, clinical and street law activities. More time must be spent assessing whether the students have achieved anticipated experiential learning outcomes.

Fourth, the academic regulations of most universities require a set number of sitting examinations that students must take. These requirements pose additional challenges to the lecturers as the traditional closed book sitting examination is unsuitable for experiential learning assessment. The university must dispense the strict requirements for summative assessment and give more room for formative assessment (Mahasneh & Thomas, 2012). To simplify the formative assessment process, a simple pass/fail assessment can be used as an alternative to grading the students. In addition, universities also have regulations requiring the students to attend lectures for a minimum of a week based on the course's credit hour/contact hour. These regulations impede work-based, and community-based learning as students have to spend significant hours outside the classroom. Therefore, the academic regulations must be amended to accommodate out-of-classroom experiential learning methods.

Finally, the universities are at risk of vicariously liable for breach of confidentiality by their students who are under placement at private legal firms, public prosecutors' offices, or courts. Cases attended by the students during fieldwork and clinical learning are real cases subject to confidentiality and privacy laws. Students participating in work-based experiential learning in law firms or courts must observe the duty of secrecy. The students may be asked



to sign a non-disclosure agreement duty to prevent disclosure of the personal data, legal issues and legal advice given to the clients (Moliterno, 2001).

In a nutshell, it is unrealistic to include all seven experiential learning methods discussed above within two semesters of teaching a contract law course. Instead, teaching contract law using experiential learning methods should be seen as a seamless and continuous process whereby various topics in contract law, such as the formation of a contract, contents of a contract, discharge of contracts, and remedies for breach of contract, among others can be incorporated in skill development courses such as mootings, trial and advocacy, and professional ethics courses. Further, there is a need to balance the three learning methods that form the basis of legal education, i.e., lecture-based, Socratic, and experiential learning. Rather than seek to provide a wholly instructional or inquiry-driven, or experiential learning curriculum, these three approaches can be integrated within contract law courses and between various skill-development courses offered by the law faculty (Hall, 2018). Future research should be conducted to develop a holistic course syllabus that can be used to teach contract law using experiential learning methods for law and non-law undergraduates.

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