Research Article:

Developing Ijtihad Skills for Undergraduate Students Through Problem-based Learning in Fiqh Subjects: Present Practices and The Way Forward

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ABSTRACT

Ijtihad, carried out by experts known as *mujtahid*, is an essential process for deriving Shariah law or Islamic legal rulings from its primary sources. The exercise of *ijtihad* is essential as many issues require Shariah-based solutions due to the changing circumstances and rapid development of science and technology. Hence, producing a *mujtahid* who can provide Islamic legal solutions to the arising challenging issues is a critical task that falls under the purview of the Islamic Religious Education (IRE) System. Fundamental knowledge requirements of a *mujtahid* such as the principles of Islamic jurisprudence known as *Usul al-Fiqh*, profound Arabic language proficiency and comprehensive understanding of the Quran and Hadith as well as objectives of shariah (*Maqasid al-Shariah*) have been incorporated into the curricula of IRE in higher education institutions, particularly in the specialisation programme of Fiqh and Usul. Nevertheless, it is argued that developing *ijtihad* skills in students requires more than just understanding the concepts and theories underlying that knowledge. Therefore, this paper aims to discuss Problem-Based Learning (PBL) as an approach to developing Higher Order Thinking Skills (HOTS) among students. Furthermore, it endeavours to delineate the elements of HOTS in *ijtihad* and analyse how PBL is applied in the pedagogy of fiqh subjects at the tertiary level to cultivate *ijtihad* skills among students. Fiqh and Usul programmes at Universiti Malaya are chosen as a case study. This study employs a qualitative research methodology in which the data was derived from course files of the programme. The data were then analysed using content, thematic, and descriptive analysis methods. Prior research underscores PBL's efficacy in promoting critical and higher-order thinking skills, rendering it a competent module to prepare students with the ability to provide solutions to the current issues in society based on ijtihad principles. The findings reveal the utilisation of PBL across various fiqh subjects within the studied programme. However, the authors maintain that the application must be improved and expanded in the future. Thus, this paper lays the groundwork for integrating *ijtihad* skills through PBL to improve IRE in fiqh specialisation at the tertiary education level.

Keywords: *Ijtihad*, Problem-Based Learning, Fiqh, Undergraduate, Higher Order Thinking Skills, HOTS

INTRODUCTION

The complex and challenging world today requires higher education institutions to prepare students to face the demands of life. Students must acquire the fundamental knowledge, skills and problem-solving ability. In other words, students must be equipped with the Higher Order Thinking Skills (HOTS), a set of skills that constitutes the ability to think critically and creatively. Researchers also describe HOTS as compromising the top cognitive domain in Bloom's Taxonomy: analysis, synthesis, creating and evaluation (Masigno, 2014; Eliyasni et al, 2019).

Nurturing students with these qualities has always been one of Islamic Religious Education's (IRE) ultimate goals. However, the complex issues emerging in the current era have made this role much more crucial. This can be understood from the following verse:

> O you who believe! Obey Allah and obey the Messenger and those in authority from among you; then if you quarrel about anything, refer it to Allah and the Messenger, if you believe in Allah and the last day; this is better and very good in the end. (Surah al-Nisa' (4): 59)

The verse indicates the necessity of *ijtihad* and a qualified scholar or *mujtahid* who can deduce the Islamic solution or rulings from the Quran and Hadith (prophetic tradition) to solve issues and disputes. *Ijtihad* is an Islamic legal term that refers to the process of making a legal decision or forming a legal opinion based on independent reasoning and interpretation of Islamic sources (Weiss, 1978). It is often described as the effort or exertion of a qualified jurist (known as a *mujtahid*) to derive legal rulings from the primary sources of Islamic law, such as the Quran, the Sunnah (practices and teachings of Prophet Muhammad), consensus (*ijma'*) and analogy (*qiyas*). Ijtihad plays a crucial role in Islamic jurisprudence (*fiqh*) as it allows for the adaptation and application of Islamic law to new and emerging issues not explicitly addressed in traditional sources. The importance of ijtihad is undeniable, as it enables legal scholars to respond to the changing circumstances of society and address contemporary challenges in the light of Islamic principles.

In most cases, the Quran provides general principles. Some of its rulings are deduced from decisive evidence (*al-adillah al-qat'iyyah*), which cannot be changed. However, these kinds of rulings are scarce in nature and primarily related to *ibadah* (ritual), such as prayer and fasting, and other ritual matters, such as punishment for some offences and distribution of inheritance. The second type of ruling is deduced by the scholars or mujtahid from their understanding and interpretation of the legal text in the Quran and Hadith, as well as other sources of Islamic law. Most of the rulings related to *mu'amalah*, which governs the relationship between humans, humans and other creatures of Allah, fall under this category. They are flexible and can be changed according to time, place, and circumstances (Laldin, 2021).

The IRE's task in developing qualified *mujtahid* is also evident as the Prophet Muhammad SAW mentioned in a hadith narrated by Abu Hurairah RA:

> Indeed, Allah SWT would send in every hundred years a person who would renew this religion (from deviance). (Abu Dawud, hadith no. 3740)

The renewer (*Mujaddid*), as mentioned in the Hadith, means an individual or more who will restore authentic Islamic practices and thus regenerate the community through new innovative ways in accordance with the current situation and conform with the Quran and the Hadith. This process includes practising ijtihad to interpret the sources of Islam (Esposito, 1991). Apparently, one cannot exercise ijtihad without proper Islamic Religious Education, especially in *Usul al-Fiqh* and Fiqh disciplines.

Fundamental knowledge requirements of a *mujtahid* such as the principles of Islamic jurisprudence known as *usul al-fiqh*, profound Arabic language proficiency as well as objectives of shariah (*Maqasid al-Shariah*) have been incorporated into the curricula of IRE in higher education institutions, particularly in the specialisation programme of Fiqh and Usul as maintained by Rahman et al. (2008). In their study on the teaching and learning of *usul al-fiqh* in five public universities in Malaysia, namely Universiti Malaya (UM), Universiti Kebangsaan Malaysia (UKM), University of Islamic Sciences Malaysia (USIM), International Islamic University Malaysia (IIUM) and University of Darul Iman Malaysia (Currently known as Universiti Sultan Zainal Abidin (UniSZA) starting from 2010), they argued that there is an urgent need to re-evaluate how the subject should be taught in order to produce IRE students who may not only master the *usul al-fiqh* but also capable to apply the *ijtihad* tool to derive Islamic legal ruling for contemporary issues. They also emphasised the connections of *usul al-fiqh* as the methodology of Islamic jurisprudence with the disciplines of fiqh, which is the product of *ijtihad*. To conclude, they believe that fiqh subjects should be the platform for students to apply *usul al-fiqh* or practice exercising *ijtihad*.

Previous works of literature show that fiqh subjects are taught using various approaches depending on the desired learning outcome. At primary and secondary formal educational levels, fiqh subjects are taught with the aim of enabling students to understand ways to implement Islamic law in their vertical relationship with their God (*ibadah*) and their horizontal life with other people (*ramallah*). In addition, it enables the student to implement and practice Islam correctly. The teacher-centred approach is widely used to ensure the understanding and enforce habituation of rituals and practices in Islam (Athoillah, 2015). In non-formal institutions such as *pesantren* or *pondok*, fiqh subjects are taught by using classical books mainly with the same approach. The aim of this institution is to educate the students or prospective *ulama* (scholars) to be loyal to traditional Islamic thought. Hence, students at a basic level are taught to memorise some of the fiqh books. At the higher level, students are encouraged to discuss contemporary issues (*bahth al-masa'il*) with the *mudzakarah* method, which aims to train students to solve problems using the available books (Athoillah, 2015).

IRE researchers are currently advancing other approaches to teaching and learning fiqh subjects. This includes contextual learning (Asriani et al., 2023; Mardhiah et al., 2024), demonstration learning (Hafifah et al., 2023), audiovisual media learning (Ridwan et al., 2021) and cooperative learning (Ismail et al., 2018). These approaches are intended to facilitate students' engagement in learning and improve learning outcomes. However, a more holistic approach discussed is Problem-Based Learning (PBL), which also encourages students to think creatively and critically to provide solutions for current issues (Nasution et al., 2023; Subri et al., 2007).

Therefore, this article discusses PBL as an approach to developing HOTS among students. Furthermore, the paper aims to establish the elements of HOTS in *ijtihad* and analyse how PBL is applied in teaching and learning fiqh subjects at the tertiary education level to develop *ijtihad* skills among students. Fiqh and Usul programmes for undergraduate students at Universiti Malaya are chosen as a sample. This study employs a qualitative research method in which the data is derived from course files of the programme. The data were then analysed using content analysis, as well as thematic and descriptive methods.

PROBLEM-BASED LEARNING AS AN APPROACH TO DEVELOP HIGHER ORDER THINKING SKILLS

PBL is one of the strategies utilised in the student-centric approach. Students are actively engaged in the learning process since they are given the responsibility of acquiring knowledge on their own. The role of the teacher or lecturer in this approach is to facilitate the learning process rather than to convey all the knowledge to students, as opposed to the conventional teacher-centric approach (Wang et al., 2021). Problems selected to fit educational objectives and criteria serve as the stimulus for the learning process in PBL. The issues are either based on real-life complications or construed as hypothetical setbacks (Graaff & Kolmos, 2003).

Other PBL-related strategies studied in educational research include Enquiry-Based Learning (EBL), Case-Based Learning (CBL) and Task-Based Learning (TBL). Each learning strategy's concept is described in Table 1.

Table 1. The concept of enquiry-based learning, case-based learning and task-based learning compared to PBL

Learning strategy	Concept
Enquiry-based learning (EBL)	Enquiry-based Learning (EBL) is a broad umbrella term to describe approaches to learning that are driven by a process of enquiry. Based on their existing knowledge, students are encouraged to identify their further learning needs through enquiries and pursue the answers. Hence, the process involves analysis of the information gathered and presentation of their finding. The tutor's role is to facilitate them throughout the process (Kahn & O'Rourke, 2005).
Case-based learning (CBL)	The Case-Based Learning is an approach that utilise actual cases to encourage students to solve issues. Wang et al. (2021) maintain that this approach is more suitable for the students who have completed their fundamental studies. According to them, CBL is a different from PBL as it requires students to solve the case whereas PBL uses cases to inspire students to acquire knowledge in related fields.
Task-based learning (TBL)	Takahashi (2008) describes Task-Based Learning is similar to PBL. The minor difference is on the strategy used. In TBL, the issues are provided while in PBL, the problem is raised by the students. This difference impacts the student attitude. PBL has more advantage in promoting active and independent learning compared to TBL that tends to leave students feeling dependent to the instructors.

Evidently, there is a thin line of difference and overlap between the approaches. It can be concluded that all the approaches are student-centric with EBL and PBL promoting more independent learning to students compared to TBL. EBL is more general as it may not necessarily involve a problem or issue, whereas PBL and TBL use it as an impetus in the learning process. While some researchers differentiate between PBL, EBL and TBL as described above, others prefer to combine them under a certain concept. Summerlee and Murray (2010), for example, strongly recommend that the discourse on this learning approach be termed Enquiry-Based Learning, which is believed to better reflect the pedagogy's emphasis. According to Summerlee and Murray (2010), the term problem in the phrase "Problem-based learning" seems to emphasise the centrality of the "problem", whereas the usage of the problem is to incite students to question context, gather information to support their comprehension of the principles underlying the problem and reflect on the broader implications. The problem may not even require students to find solutions.

In light of the discussion above, the strategy known as PBL as defined by many researchers (Graaff & Kolmos, 2003; Khoiriyah & Husamah, 2018; Wang et al., 2021), is the approach that leverages problems to encourage students to think critically and analyse all relevant information to solve the problem. Who are these researchers? The problem or issue may be addressed or raised by students. Hence, the definition of PBL in this article may also include Case-Based Learning and Task-Based Learning. This PBL is the subject of attention because it resembles the practice of *ijtihad* in Islam which aims to provide a legal solution to an issue or problem. EBL is therefore excluded because it does not necessarily involve issues that need to be solved. EBL is more general and emphasises questions and investigation for the answer.

The PBL process involves several phases, stages and steps that may differ from researcher to researcher. Yet, they are comparable and can be explained as in Table 2.

Table 2. Phases, stages and steps in the problem-based learning approach

Yew et al. (2011)	Khoiriyah et al. (2018)	Masigno (2014)
(i) Initial problem analysis	(i) Integrating students to the problem	Session 1:
		(i) Clarifying concepts
		(ii) Defining the problem
		(iii) Analysing the problem - brainstorming
		(iv) Organise facts and knowledge
	(ii) Organising students to learn	(v) Formulate learning objectives
(ii) Self-directed individual learning	(iii) Guiding the investigation	Intersession:
		(vi) Self-study
(iii) Subsequent reporting phase	(iv) Developing and presenting the work	Session 2:
	(v) Analysing and evaluating the problem-solving process	(vii) Discussion

Even though the processes listed are clearly different, the concepts are not in opposition to one another. It provides a more precise explanation of the PBL process. Yew et al. (2011) explained PBL in several phases, while Khoiriyah et al. (2018) described the stages, and Masigno went into more detail on the PBL. The steps of problem-solving, which consist of (i) finding and understanding problems, (ii) developing good problem-solving strategies, (iii) exploring solutions, and (iv) thinking and redefining problems and solutions over time, were also noted by Khoiriyah et al. (2018) in their article.

Based on previous pieces of literature, PBL is reported to benefit students. This approach aims to stimulate students' motivation in self-learning, problem-analysing and problem-solving, all of which aid in their development of a deeper understanding of the subject (Wang et al., 2021). Students that engage in self-directed learning can also learn other important skills, such as goal setting, planning and self-control in terms of time and task management (Yew et al., 2011). Previous studies also revealed that students commonly spend a lot of time working on the task given (Graaff & Kolmo, 2003). As a result, it has been noted that students who participate in PBL or CBL continue to engage in problem-solving actively and may be able to solve new problems with greater efficiency in the future (Wang et al., 2021). PBL also promotes collaborative learning to solve problems through interactive group discussions with peers and facilitators.

In addition of having positive impact on students' attitude, many researchers maintained that PBL is among the best teaching strategy to enhance critical thinking and cultivate HOTS (Tiwari et al., 2006; Masigno, 2014; Widiawati et al., 2018; Hussin et al., 2019). These crucial skills will benefit students when they start their careers after graduation. According to Eliyasni et al. (2019) and Yusof et al. (2012), HOTS include problem-solving and decision-making skills as well as the ability for critical and creative thinking. Creative thinking, which is also part of HOTS can help students advance their arguments and become more open-minded to different perspectives (Khoiriyah et al., 2018). Students who engage in creative thinking, which is a component of HOTS, can progress their arguments and broaden their minds to consider alternative viewpoints.

HIGHER ORDER THINKING SKILLS IN *IJTIHAD* PRACTICES

Historically, *ijtihad* was a vibrant and dynamic process during the early centuries of Islam, with numerous scholars engaged in independent reasoning to derive legal rulings. However, over time, the practice of *ijtihad* became more restricted, and the authority of established schools of thought (*madhhabs*) gained prominence. This led to a decline in personal reasoning and a reliance on existing legal precedents (Hallaq, 1984). While the traditional *madhhabs* continue to be influential in Sunni Islam, there has been a renewed interest in *ijtihad* in recent times, especially among scholars advocating for a more flexible and contextualised approach to Islamic law. Some contemporary scholars argue for the revival of *ijtihad* and the recognition of qualified scholars who can independently interpret the sources to address the needs and challenges of the modern world (al-Khatib, 1984).

It is important to note that *ijtihad* is not an unrestricted, free-for-all interpretation. There are certain conditions and qualifications required for someone to engage in ijtihad, such as having a deep knowledge of Islamic law, language and its principles. Scholars who engage in *ijtihad* are expected to adhere to a rigorous methodology and be well-versed in the traditional sources and legal principles (al-Qaradawi, 1996). However, *ijtihad* allows for the application of independent reasoning and interpretation to derive legal rulings from

the foundational sources of Islam. It is seen as a means to ensure the ongoing relevance and adaptability of Islamic law in addressing the needs of Muslim communities throughout history.

Ijtihad is undoubtedly the vehicle for HOTS in Islamic jurisprudence (Badi & Tajdin, 2004). It is understandable in the Islamic tradition from a hadith: "Al-Harith ibn 'Amr reported: The Messenger of Allah, peace and blessings be upon him, sent Mu'adh to Yemen and he said, "How will you judge?" Mu'adh said, "I will judge according to the Book of Allah." The Prophet said, "What if it is not in the Book of Allah?" Mu'adh said, "Then, with the Sunnah of the messenger of Allah." The Prophet said, "What if it is not in the Sunnah of the Messenger of Allah?" Mu'adh said, "Then, I will strive to form an opinion." The Prophet said, "All praise is due to Allah, who has made suitable the messenger of the Messenger of Allah." (Sunan al-Tirmidhi, hadith no.1327).

In this hadith, *ijtihad* means exercising one's opinion or judgement (*al-`amal bi al-ra'y*). As such, it involved legislating on matters about which the Quran and the Sunnah are silent (Shah & Mahmud, 2010). Theoretically, its modus operandi was confined to cases that were not covered by the Quran, the Sunnah and *ijma`* (scholarly consensus) during the classical period. This was known as *ijtihad bi al-ra'y* (intellectual exertion based on personal legal reasoning) (al-Sulaymani, n. d.). Nevertheless, there are some frameworks that need to be considered while practising *ijtihad*. It can be understood from the definition of ijtihad as mentioned by al-Baydawi; "knowing the evidence of jurisprudence in general, how to benefit from it, and the status of the beneficiary (*mujtahid* and/or *muqallid*)". Thus, the framework of the practice of *ijtihad* in general can be concluded as follows (al-Zuhayli, 1999; Zaydan, 2009):

1. Familiarity with the sources or evidence.

2. Proficiency in understanding the appropriate methodologies.

3. Awareness of the qualification required for a *Mujtahid*.

The elements of HOTS are embedded in these practices. In advancing an argument, a *mujtahid* who exercises ijtihad must consider two types of sources or proofs namely *dalil naqli* (transmitted proof) and *dalil aqli* (intellectual proof). *Dalil naqli* is derived from textual sources such as al-Quran, al-Sunnah, the views of the companions and *syar' man qablana* (legal precedents) transmitted from an earlier generation to the next. Whereas *dalil aqli* stemmed from logic, inductive and deductive reasonings or other modes of intellection such as *al-Qiyas*, istihsan (juristic preference), *istishab* (presumption of existing conditions) and so on. In exercising *istihsan* for example, al-Zuhayli (1999) mentioned the requirement of HOTS: "The application of *istihsan* is a testament to a deep understanding and critical approach in the view and understanding of the problem."

The aforementioned statement underscores the critical role of critical thinking in advancing arguments, particularly those based on *dalil aqli*. Similarly, HOTS are indispensable in analysing *dalil naqli* in order to understand the meaning of a text by scrutinising the language and contextual nuances. In terms of methodology, deducing a ruling from the sources is known as *istinbat*. Alongside *istidlal*, it constitutes a pivotal aspect of ijtihad, involving the endeavour to draw references from reliable shariah sources on the studied issue. The use of HOTS elements is also prevalent in the practice of *istinbat* and *istidlal*. Therefore, the exercise of ijtihad necessitates the involvement of a qualified *mujtahid*. A *mujtahid* must have the ability to perform ijtihad, a condition of paramount importance. 'Asyur (2021) mentions three prerequisites for nurturing a mujtahid namely knowledge, ability and training ('Asyur, 2021). Training is important to enhance the *mujtahid*'s ability to perform *ijtihad* which constitutes *tasawwur, takyif, hukm* and *ifta'* ('Ali Juma'ah, 2008). This framework of *ijtihad* is depicted in the Figure 1.

Tasawwur
- *Tasawwur* refers to conceptualization or the process of understanding and formulating a clear mental picture of a legal issue or a legal rule. It involves grasping the nature, characteristics, and elements of a particular matter or concept within Islamic law. *Tasawwur* serves as a foundational step in legal reasoning, as it helps in defining and conceptualizing the subject matter before proceeding to analyze and determine its legal implications.

Takyif
- *Takyif* means specification or the process of determining the detailed specifics of a legal ruling. It involves examining the various aspects and circumstances of a particular case to determine the precise legal ruling that applies to it. *Takyif* addresses questions such as "how," "when," and "under what conditions" a ruling is applicable. It delves into the specifics of the legal rule, taking into account the context, conditions, and factors that may influence its application.

Hukm
- *Hukm* refers to a legal ruling or judgment regarding the permissibility (halal), prohibition (haram), recommendation (mandub), discouragement (makruh), or obligation (wajib) of an action or matter in Islamic law. It represents the legal verdict or decision derived from the application of Islamic legal principles and sources to a given situation. *Hukm* serves as a practical outcome of the legal reasoning process, providing guidance on how Muslims should conduct themselves in various aspects of life. Hukm is derived by applying the methodology of ijtihad i.e usul al-fiqh and observing Maqasid al-Shariah as parameter and benchmark.

Ifta'
- *Ifta'* is the act of issuing a legal opinion or a religious verdict by a qualified Islamic scholar known as a mufti. Muftis are trained in Islamic law and are authorized to provide legal guidance and answer questions related to religious matters. The process of *ifta'* involves seeking and providing expert legal advice on matters where a specific ruling is not explicitly mentioned in the primary sources of Islamic law. The mufti, through *ijtihad* (independent reasoning) and consultation of relevant legal sources, provides an informed opinion to individuals seeking guidance on religious or legal matters. In this stage, consideration of the consequences (*i'tibar al-ma'alat*) is important to ensure the implementation of a legal opinion/ruling in reality will bring maslahah as intended by Shariah.

Figure 1. Framework of *ijtihad*

In summary, *tasawwur* involves conceptualising a legal issue, *takyif* is the process of specifying the details of a legal ruling, *hukm* refers to the legal verdict or judgement and *ifta'* involves seeking and providing expert legal opinions or religious verdicts. These concepts are integral to Islamic legal reasoning and serve as tools for understanding and applying

Islamic law in various contexts. In the ijtihad process, a mujtahid must possess a repertoire skills such as analytical thinking, contextual understanding, problem-solving, intellectual independence and intellectual engagement.

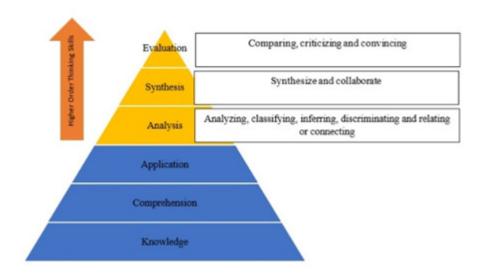All of the cognitive skills required in performing *ijtihad* are HOTS, as in the Figure 2.

Figure 2. Higher Order Thinking Skills in Bloom's Taxonomy

Based on the Figure 2, students with analytical skills can differentiate between fact, opinion, assumption, reasons and claims and their relation in an argument. Synthesising skills enable students to draw conclusions from reasons and evidence, thus creating a novel result for a specific situation. The final skill in HOTS is evaluation, which facilitates students to assess the credibility of sources of information and the claims they make. A credible claim and conclusion must be supported with evidence, justifications, methods, criteria or theory (Magsino, 2014; Adams, 2015).

HOTS are indeed part of the required skills in *ijtihad* practices. This is due to the fact that *ijtihad* is often employed to address complex and novel legal issues that may not have been explicitly addressed in traditional sources. *Ijtihad* necessitates the use of creative problem-solving skills, as well as knowledge of Islamic law and principles to derive reasoned and practical solutions. This process encourages critical thinking by challenging scholars to think innovatively and apply legal principles in a manner that aligns with the objectives of Islamic law.

Other than that, contextual understanding or a comprehensive understanding of the circumstances surrounding legal issues is important to assess how Islamic principles can be meaningfully applied in various contexts. *Mujtahid* must consider the relevance and applicability of traditional legal rulings in contemporary times. Since the *mujtahid* must evaluate various legal principles, textual evidence and reasoning methods, analytical thinking is needed. It involves assessing different perspectives, considering alternative interpretations and weighing the strengths and weaknesses of various arguments.

The *ijtihad* process encourages intellectual independence and autonomy to form their own judgements and interpretations rather than relying solely on established legal opinions. This independence of thought fosters critical thinking by enabling scholars to question prevailing norms, challenge existing interpretations and engage in intellectual discourse to arrive at well-reasoned conclusions. *Ijtihad* often involves scholarly debates, discussions and the exchange of ideas among jurists. This environment of intellectual engagement and discourse cultivates critical thinking by exposing scholars to different perspectives, encouraging them to evaluate and challenge arguments and strengthening their ability to construct sound and persuasive reasoning.

All these skills are crucial for preparing IRE students to face challenging issues and problem in the 21st century. Lower cognitive skills such as remembering, memorising and repeating are definitely insufficient to produce a qualified *mujtahid*. Hence, education or training must be provided to students in addition to extensive knowledge. Many researchers suggested that imparting HOTS to students is possible by involving them in tasks related to problem-solving. Therefore, a modern approach, including PBL, might be employed to enhance their ability or skills.

INTEGRATION OF *IJTIHAD* SKILLS THROUGH PROBLEM-BASED LEARNING IN FIQH SUBJECT: AN APPRAISAL

The ability to derive legal rulings from Islamic sources, which is known as *ijtihad* is a crucial aspect of IRE generally and of the fiqh discipline particularly. Cultivating critical thinking and analytical skills is one of the methods that aid in the development of ijtihad abilities. By cultivating critical thinking and analytical skills, students develop the capacity to engage in ijtihad effectively. With these skills, they can critically analyse shariah issues, evaluate evidence, consider multiple perspectives, balance fiqh principles, contextualise rulings and make informed judgements based on Islamic principles. Ultimately, these abilities contribute to the growth and development of *ijtihad* as a dynamic and relevant process within Islamic jurisprudence.

Problem-based learning (PBL) is an effective approach for cultivating critical thinking and analytical skills in the context of *ijtihad* and fiqh. PBL encourages students to analyse legal issues, research relevant sources and collaborate in finding solutions (Romera et al., 2016).

This hands-on approach develops critical thinking, analytical skills, and the ability to apply fiqh principles in practical contexts. Several researchers have conducted studies to reveal the effectiveness of problem-based learning in improving students' critical and creative thinking (Ulger, 2018; Al-Hassawi et al., 2020; Mantra et al., 2022). Therefore, PBL can be an effective approach to cultivating ijtihad skills among undergraduate students studying Fiqh. This is due to some similarities between the PBL steps and the ijtihad framework that can be portrayed in Figure 3.

Figure 3. Similarities and connection between the PBL approach and the ijtihad framework

Current Practices at Universiti Malaya

In efforts to develop *ijtihad* skills among students, the framework of *ijtihad* must be exposed to the *usul al-fiqh* and fiqh students, especially at the tertiary education level. The PBL approach may facilitate the process as it has been applied in various disciplines, including in the fiqh teaching and learning. In the Academy of Islamic Studies Universiti Malaya, PBL is used as an approach in teaching and learning. Therefore, it is now crucial to evaluate how the approach has been applied to produce the desired students in the Fiqh and Usul programme. Consequently, improvement may be suggested for the future.

The Academy of Islamic Studies Universiti of Malaya, Kuala Lumpur, Malaysia, offers a Bachelor of Shariah with a specialisation in fiqh and *usul al-fiqh*. This programme provides students with a solid foundation in the fields of fiqh and *usul al-fiqh*. It will bridge the

gap between theoretical discourse and the practical demands of societies. Accordingly, the programme intends to impart to the students the spirit of creative articulation of fiqh thoughts and methodologies to solve present juridical problems affecting Muslims through fiqh and *usul al-fiqh*.

In this programme where the primary components are fiqh (jurisprudence) and *usul al-fiqh* (principles of jurisprudence), the curriculum would focus extensively on these two fields. The following is a breakdown of what students might typically study at the undergraduate level:

Usul al-Fiqh

Among the subjects are *Dirasah al-Quran wa al-Sunnah* (Quranic and Prophetic studies), *Nazariyyah al-Hukm* (theoris of Islamic rulings), *Qawaid al-Tafsir* (sciences of exegesis), *Qawaid al-Fiqh* (Islamic legal maxims), *Dirasah al-Ijma' wa al-Qiyas* (study of consensus and analogical reasonings), Shariah Studies Literature, *Maqasid al-Shariah*, *al-'Urf wa al-Maslahah* (customs and benefit), *al-Ijtihad wa al-Ikhtilaf* (independent legal reasoning and difference), *Manahij al-Fuqaha* (methodologies of classical Islamic scholars), *Dirasah al-Nassiyyah* (text studies), Practice of Fatwa and *Ayat wa Ahadith al-Ahkam*.

Fiqh

Among the subjects are *Fiqh al-Ibadat* (fiqh of worship), *Fiqh al-Muamalat* (fiqh of transactions), *Fiqh al-Jinayat* (fiqh of crimes), *Fiqh al-Usrah* (fiqh of family law), Fiqh of Consumerism, Fiqh Zakat, *Fiqh Waqaf wa al-Hibah* (fiqh of waqf and gift), Contemporary Islamic Transaction, Hudud Studies, *Fiqh al-Mawarith wa al-Wasaya* (fiqh of inheritance and will), *Nizam al-Qada* (judicial system), *Fiqh al-Hajj wa al-'Umrah* and Fiqh of Cultures.

Form the several subjects mentioned above, the term fiqh subject refers to courses or areas of study that focus on the practical application of Islamic jurisprudence. Fiqh, often translated as jurisprudence or Islamic law, deals with the specific rules and regulations governing various aspects of human conduct as derived from Islamic sources such as the Quran, Hadith, consensus (*ijma'*) and analogical reasoning (*qiyas*).

In the context of a Shariah programme, fiqh subjects involve the study of specific branches of Islamic law and their application in different areas of life. These subjects provide students with a detailed understanding of the legal rulings and principles governing matters such as worship, transactions, family law and societal interactions. Students learn about the methodologies used to derive these rulings, the differences between various schools of jurisprudence, and the practical implications of Islamic legal principles. Fiqh subjects in a Shariah program aim to equip students with the knowledge and skills necessary to

interpret and apply Islamic law in contemporary contexts, preparing them for the real-world ramifications of Islamic legal precepts.

In order to analyse how PBL is applied in the teaching and learning of fiqh subjects, this study uses a type of field research with descriptive qualitative methods. This research was carried out with descriptive qualitative methods to explore and describe phenomena in depth, focusing on understanding the meanings, experiences, and practice of PBL in the fiqh subjects. Data collection methods in this research include observations, content analysis, or a combination of these techniques.

Based on the content analysis on the courses file for 2021–2023, it was found that PBL has been integrated into the present methods of teaching and learning in the Fiqh and Usul programme for undergraduate students. It is evident from the Course Learning Outcome (CLO) of various subjects that involve active learning, critical thinking, and the application of Islamic jurisprudence principles to real-life scenarios incorporated into the activity and assessments. Among the subjects are *Fiqh al-Usrah* (Islamic family law), *Fiqh al-Muamalat* (Islamic transaction law), *Fiqh al-Jinayat* (Islamic criminal law), *Qawaid al-Fiqhiyyah* (legal maxims), Hudud Studies, Contemporary Islamic Transactions, *Fiqh al-Waqf wa al-Hibah* (Religious endowment and donation law) and Shariah Paper Project.

Numerous strategies have been adopted to effectively engage students and promote active learning, such as case studies, group discussions, role-playing exercises, reflective writing, problem scenario presentation, guided research and inquiry and other methods to enhance ijtihad-related abilities. Case studies, for instance, have been used as a method of assessment in *Fiqh al- Usrah*, *Fiqh al-Muamalat*, *Fiqh al-Jinayat*, *Qawaid al-Fiqhiyyah*, Contemporary Islamic Transaction and *Fiqh al-Waqf wa al-Hibah*. The case study examples are explained in Table 3.

Table 3. Example of case study task in Fiqh and Usul Programme for undergraduate in academy of Islamic Studies Universiti Malaya

Subject	Examples of case study task	Activity to complete the task
		(i) Presentation
Fiqh al-Muamalat	There is an RM50 body lotion on the market. The same body lotion is also available in the same district for RM90 from another seller. The seller that charges a greater price claim that this body lotion is powered by naotechnology. What is the Islamic viewpoint on this sale?	Students are required to discuss and present the answer in groups

Table 3 (Continued)

Subject	Examples of case study task	Activity to complete the task
Current Islamic Transaction	Al-Rizq Bank provides its customers with a savings account based on *wadiah yad damanah* contract. The bank seeks your opinion to ensure that what is being done is Shariah-compliant. The way things work is as follows: (a) The bank uses the money in the customer's account. (b) The bank offers a promotion such as: "Open a savings account with us, and you will get a laptop and a monthly hibah of 5%?" (c) What is the alternative contract that can be used to enable the bank to offer gifts? (d) The bank offers a special profit rate for customers who apply for personal financing based on *tawarruq* provided that the customer deposits a total of RM10,000 into a wadiah-based savings account and the amount is earmarked by the bank for a certain period.	Students are required to discuss and present the answer in groups.
		(ii) Written assignment
Fiqh al-Usrah	I texted my wife, "You are divorced if you leave the house without my knowledge or consent." My only goal was to educate my wife and get her to listen to me. Otherwise, I will divorce her. She had come out twice after being warned. When I asked her about it, she replied, "The subject of the message is not in her mind, and she should go out and get her needs." To me, the rationale "to get the need" is absurd because she does not need to go out because all of her needs are fulfilled. (a) Is the rationale "nothing in the wife's mind about the issue that her husband wrote" can be used to reject the occurrence of *talaq* (divorce)? (b) How does the husband express his *talaq*? Explain the impact of the type of *talaq* that was made in detail.	Students are required to discuss and submit the answer as an assignment in groups

Table 3 (Continued)

Subject	Examples of case study task	Activity to complete the task
Qawaid al-Fiqhiyyah	The application of the legal maxim "Avoiding harm is prioritised over gaining benefits." in the issue of Friday prayer and congregational prayer (jama'ah) in mosques and surau during the COVID-19 pandemic in Malaysia.	Students are required to discuss and submit the answer as an assignment in groups
Fiqh al-Jinayat	Please find and choose one crime case reported in an online newspaper. Then, prepare a comprehensive analysis of the case based on Islamic Criminal Law, consists of the following aspects:	Students are required to discuss and submit the answer as an assignment in groups
	1. Type of offence/crime in the reported case.	
	2. Explain why it is considered as an offence/crime? Establish the elements of crime (*arkan al-jarimah*) in the chosen case.	
	3. Determine whether the perpetrator can be held accountable for his/her conduct with justification.	
	4. Propose reasonable punishment for the offence according to the Islamic Criminal Law perspective.	
		(iii) Final examination
Fiqh al-Jinayat	In the following situation, please indicate the supporting evidence for the crime. Next, justify and explain the proper punishment imposed on the offender: Ali slaughtered the chicken because he believed it to be his. It later turned out that it belonged to his neighbour, who subsequently asked that Ali must be penalised for theft.	Students are required to answer it individually in the examination.
Fiqh al-Waqf waal-Hibah	Describe the ruling of hibah for the following case:	Students are required to answer it individually in the examination.
	"Ahmad had given Abu a shirt and Abu willingly took and kept the shirt in his house. Ahmad then reclaimed the shirt from Abu and wanted to cancel his donation to Abu"	

The PBL through case studies method encourages the use of real-life case studies related to contemporary issues in Fiqh. Students can analyse and discuss these cases, applying their knowledge of Fiqh principles to propose legal opinions and solutions. This approach

helps students connect theoretical concepts to practical situations, fostering a deeper understanding of the subject matter. Additionally, it will improve their capacity for problem-solving and cultivate in them a critical fiqh-based thinking attitude.

Simulations and role-playing can also be used to apply PBL to the fiqh subject. When participating in role-playing exercises or simulations, students can play a variety of characters, including bankers, academics or shariah consultants. They are given a legal issue or a practical issue to resolve or offer Shariah advice on. To do so, they must participate in legal analysis, study and discussion. This practical method enables students to gain analytical abilities, experience the complexity of real-world operating circumstances and comprehend the practical application of Fiqh principles.

The Current Islamic Transaction subject is one of the fiqh subjects that incorporates simulations and role-playing into PBL in the tutorial session. An example of a role-playing exercise is a historical fiqh discussion of the contentious tawarruq contract. Students are given roles as various historical people participating in the discussion by the instructor. Students will learn about the historical background, analyse the arguments presented by these scholars and participate in a mock debate or discussion that represents their points of view. Subsequently, students are required to engage in interpreting and deriving legal rulings by studying the texts, examining their context, considering relevant principles and employing logical deductions in the case study presented. Students can use this simulation to analyse historical Fiqh arguments critically, comprehend various points of view, deepen their knowledge of Fiqh concepts and apply their knowledge in practical scenarios. Simulations and role-playing activities in the Fiqh subject not only engage students actively but also allow them to apply Fiqh principles in practical and realistic contexts. These activities promote critical thinking, legal analysis, collaboration and the development of communication skills—all essential aspects of Problem-Based Learning.

In addition to that, the Shariah Project Paper, as one mandatory subject for fiqh students, embodies the principles and processes of PBL. In the beginning, students are required to choose a shariah-related topic that is relevant and aligns with the learning objectives of the course or curriculum. This could include issues related to Islamic law, ethics, jurisprudence, or contemporary challenges faced by Muslim communities. This subject also incorporates opportunities for student-led discussions, research, analysis and synthesis of findings and encourages students to draw upon shariah sources, such as the Quran, Hadith, scholarly interpretations and legal precedents, to inform their understanding and decision-making. Among the topics that students have selected for the Shariah Project Paper are the issue of using facial cosmetic treatments according to the current fiqh perspective, the implementation of Artificial Intelligence Technology in the fatwa production reference process in Malaysia, the potential of property as pledge from the perspective of fiqh and law and many more. By using a Shariah Paper Project subject as an example of PBL implementation, students can demonstrate how this pedagogical approach fosters deep engagement, critical thinking, and ethical decision-making grounded in Islamic principles

and teachings. This hands-on learning experience empowers students to become informed and responsible participants in their communities, equipped with the knowledge and skills needed to navigate complex ethical challenges within a Shariah framework.

RECOMMENDATION AND WAY FORWARD

According to the examples of case study tasks in the Fiqh and Usul programmes in Table 3, the majority of the tasks provided lack the final stage, which is presenting the work and having a guided discussion with the instructor. PBL, in fact, is a student-centred instructional strategy that focuses on problem solving in the real world. It is a systematic procedure with discrete phases and stages, including the evaluating, presenting and sharing steps as the final stage in the PBL process, as shown in Table 2. This process is essential for providing constructive feedback and assessing students' work, both individually and as a group, as well as fostering communication skills and the capacity to articulate ideas effectively. Furthermore, presenting the findings will inspire peer comment and discussion, and promote additional learning and concept development. Students will miss the opportunity to communicate and consolidate their information if this is not applied as intended. They may have information gaps or misconceptions that shall go unaddressed.

Henceforth, moving forward with integrating ijtihad skills in fiqh subjects through PBL, necessitates comprehensive inclusion of all steps and phases. PBL, with its emphasis on fostering reflective practices and promoting lifelong learning, aligns synergistically with the iterative nature of the *ijtihad* process. By receiving feedback from the presentation, students reflect on their learning experiences, research methods, legal reasoning and decision-making processes. Students also develop a curiosity and desire to continue exploring Islamic jurisprudence, staying updated on legal developments and refining their ijtihad skills beyond the classroom. These qualities are vital for effective *ijtihad* and professional practices.

CONCLUSION

Problem-based learning is gaining popularity as a method for enhancing critical thinking. Previous studies have shown PBL's efficacy in promoting critical and higher-order thinking skills rendering it a suitable pedagogical approach for nurturing ijtihad skills among students in fiqh subjects. The congruence between the ijtihad framework comprising *tasawwur*, *takyif, hukm* and *ifta'* with the steps in problem-based learning has opened the door for integration of ijtihad skills training of students within the existing PBL approach, which is applied in many higher education institutions.

In this study, it was found that PBL has been used in many fiqh subjects through students' presentations, writing assignments and final examinations. The example provided in this

paper may be replicated in other institutions. However, the implementation of PBL in the programme studied lacks the final stage, which is the presentation of students' work and guided discussion from instructors. Future enhancements to PBL implementation should prioritise the incorporation of this critical stage to maximise its efficacy. Nevertheless, the finding in this paper only represents the practice in the specialisation programme of Fiqh and Usul at the Academy of Islamic Studies Universiti Malaya, Kuala Lumpur. For future research, it is recommended that a larger scale of research be conducted collaboratively to evaluate how PBL can be applied to develop ijtihad skills among *usul al–fiqh* and fiqh students in Muslim countries.

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