Reading, Writing, and Questions in Advance: Teaching English Legal History

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Abstract

This short essay describes and explains a teaching method with four key elements: (1) telling students in advance the questions to be discussed in the next class, (2) requiring some students to submit written answers to the questions before class, (3) assigning only short, primary source readings, (4) banning laptops, recording classes, and distributing PowerPoint slides. This method enhances the quality of class discussion and helps students appreciate the importance of careful reading of primary sources. With minor modifications, this method can also be used for modern law classes.

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Reading, Writing, and Questions in Advance

Daniel Klerman[*]

   After teaching legal history for several years in much the way that John Langbein taught me at the University of Chicago, I have recently made significant changes.[1] My new method consists of four key elements:

   1) Telling students in advance the questions to be discussed in the next class.

   2) Requiring some students to submit written answers to the questions before class.

   3) Assigning only short, primary source readings.

   4) Banning laptops, recording classes, and distributing PowerPoint slides.

I discuss the details and rationale for each of these elements below.

   Telling students in advance the questions to be discussed in the next class. I always tell the students the main questions I plan to ask in the next class. I do this by embedding the questions in the handouts which include the readings. I am also careful not to include any questions that I do not plan to discuss in class. As a result, when students prepare for class, they can focus on the key issues, secure in the knowledge that their preparation will be directly relevant to class discussion. I find that giving students the questions in advance reduces anxiety, sparks out-of-class student conversations, facilitates broader participation in class, and produces more informed classroom discussion.

   Requiring some students to submit written answers to the questions before class. The required papers are usually 2-3 pages long and are written answers to the questions that all students have been informed will be discussed in the next class. Depending on the size of the class and how often I want each student to write, I divide the class into between two and six groups of equal size. For each class session, one group is required to write up answers to that

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[1] I taught undergraduates Anglo-American Legal History using this new method at Caltech in 2007 and 2008. I also used this method when I taught a 20-hour English Legal History mini-course to law students at Tel Aviv University, although, because the course required students to meet almost every day for up to 150 minutes, I omitted element #2 (required writing) and assigned readings that were twice as long. I have not taught legal history at an American law school since switching to this method of teaching. Nevertheless, I have taught several modern law courses at USC using the same techniques, so I am confident that this method would work teaching legal history to American law students.

day's questions and submit them before class begins. In recent years, my class has usually met Mondays and Wednesdays and has had about twenty students, so I have divided the class into two groups. One group writes for every Monday class, and one group writes for every Wednesday class, so each student writes once a week. With larger classes that meet more frequently, one could create more groups. For example, if a class met three times a week and there were sixty students, I might create six groups of ten students each, with each group writing once every two weeks. Group 1 would submit answers to one day's class. Group 2 would submit answers to the next class, and so on until all groups had submitted papers, and then the cycle would repeat. Since my classes are generally small, I grade these short papers myself. I find that I can grade about ten papers in an hour, and that doing so before class helps me anticipate the issues and confusions that will arise in class discussion. With bigger classes, the grading would be overwhelming, and teaching assistants would be necessary. In order to ensure that the workload is not excessive for the students, I reduced the amount of reading I assigned, as discussed below. I find that regular, required writing encourages students to think more deeply about the reading. In addition, mandatory writing assures that a substantial fraction of class is well-prepared and eager to participate in class discussion.

Assigning only short, primary source readings. For each class, I assign only short, primary source documents. For example, a typical class assignment might be an edited version ofMagna Carta (4 pages), *Somerset* v. *Stewart* (6 pages), or three medieval assumpsit cases (5 pages). Short readings help students focus their class preparation and really master what they read. I use a portion of each class session to give students the background they need to understand the reading for the next class. As a result, secondary source readings are not necessary. By keeping the readings short and telling students the questions in advance, I find that class discussion is much enhanced and that students have a much greater understanding of the process of making sense of the past. The focus on primary materials helps students understand what historians actually do; too many students think that a historian is someone who reads lots of books written by other historians, rather than someone who principally interprets primary source materials. By confronting themselves the ambiguity of legal texts and hearing differing interpretation proposed by their classmates, students come to appreciate the plausibility of multiple interpretations. To reinforce the importance of careful readings of primary source materials, my exam is structured much like class assignments – short primary source documents they have never seen before followed by questions that require close reading of the texts in light of information and insights from class.

Banning laptops, recording classes, and distributing PowerPoint slides. I find that laptops have two pernicious effects. Many students who are paying attention turn themselves into stenographers, striving to record my every word rather than participating or thinking about what is being said by their classmates. Other students cannot resist the temptation to check their email or surf the web. So I ban laptops, iPads, and similar devices. In return, I make an audio recording of every class and post it on the web. I used to do this with a portable digital voice

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recorder, but most smartphones now have audio recording capability, and many classrooms are wired to record automatically. In addition, I distribute paper versions of my PowerPoint slides, and most students take their notes directly on the slides. Because posting audio recordings might cause some students to skip class, I require attendance and enforce that requirement through random calling. If I call on a student who isn't present and who hasn't emailed a valid excuse in advance, that reduces his or her grade.

While I first developed this teaching method for an Anglo-American Legal History course I taught undergraduates at Caltech, I have found that this method works equally well at law schools for both legal history and modern law classes. You can find more details about these methods, as well as my readings, questions, and slides, by going to www.klerman.com and clicking on the "Legal History" button at the left.