

Abstract

History 257, Law in the Pre-Modern World, brings students into contact with a variety of non-Western and pre-modern legal cultures. The goal of this course is to enable students to engage with the material while fostering and modeling analytical skills.

The underlying question for the ISL research was:

How did students' abilities to do cross-cultural/cross-temporal analysis develop over the term in History 257?

Methods

There were 47 students enrolled in the course.

(1) Essay Comparison

Students were asked to write a 2-page essay at the beginning of the semester and again at the end of the semester in response to the following prompt drawing from ancient Chinese law:

A father stealing from his children is not a case of theft. Now a foster father steals from his foster children. How is he to be sentenced? It is warranted to be considered a theft?

Explain the law in your own words. What is it trying to achieve? What are the values or ideas of justice that underlie this law? Does it seem fair to you?

Student essays written at the beginning of the term were compared with their essays at the end of the term.

(2) Reflective Essay

After completing the second essay, students wrote a 1-page reflection about the differences between their two essays and to what they attribute these differences.

Results

(1) Nearly all students developed better basic analytical skills.

In their first essays, about a third of the students simply repeated the law in their own words, failing to do any real explanation or analysis. In the second set of essays, many of these more critically analyzed the law, pointing out inconsistencies, loopholes, or ambiguities. Others, who had already engaged in closer readings in their first essays, improved them in their second efforts. They also were more likely to consider historical-social context or engage in cross-cultural comparison of other legal systems.

(2) Half of the students developed better critical analytical skills (i.e., how they make judgments or ascribe values to laws). However, nearly all students showed a better use of evidence.

In the first set of essays, most students viewed the law as unfair, either in discriminating against foster parents or non-foster children. From the first essay to the second, about half the students maintained their previous positions regarding evaluation of the law itself. However, in the second essay, many more students really argued for their positions or presented them in more nuanced or qualified terms. This was partly a function of their increased analytical treatment of the law. Of those who continued to view the law as unfair, many added explanations of why the law would have been viewed as equitable in its socio-historical context. There was an overall increase in the use of knowledge gained throughout the course in both basic and critical analysis. Very few students demonstrated no change at all in terms of content or form of their analysis.

(3) Students' meta-reflective processes on their reading were uneven.

In reflections, some students were able to effectively trace their own developments and changes in analysis in terms of deeper, conceptual shifts, while others focused more literally on the substantive changes and less on what those changes represented. A few students overstated the differences between first and second analyses. Only one student, whose second analysis was almost exactly the same as the first (almost verbatim) claimed not to have changed his opinion or basic approach to reading laws.



Implications for Teaching

- **Assign a reflection paper early in the term**
 - The reflection paper comparing students' two essays provided a personal and powerful learning experience with the potential to foster self-awareness on the part of the students as well as to encourage greater involvement in the learning process.
 - Assigning this earlier in the course would be preferable in order to facilitate learning as well as engagement in the learning process itself earlier in the term.
- **Structure classroom discussions to prompt student development**
 - After the first essays, I engaged in more classroom discussion of (1) the analysis of laws, and (2) the ethical, moral and political implications of the laws.
 - I also encouraged students to discuss how our own contemporary perspectives shape our evaluation law in the pre-modern world and how critical-historical analyses can be useful in tempering and even improving our own evaluations and engagements of other legal cultures
 - These discussions allowed students to share opinions while gaining experience in substantive analysis.
 - For the future I would wish to develop a meta-language for discussing student interventions, and to encourage them to think about their own and other students' responses and analyses in these terms.
- **Develop further strategies to enhance (a) basic analytical skills (b) critical analytical skills and (c) meta-cognitive awareness**
- **Be even more explicit about goals of course throughout and draw attention to moments, exercises, readings, assignments that draw upon analytical skills or that call for reflection.**

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