

The Concept of Wa III

Purpose:

Students will compare the resolution of disputes in the United States and Japan.

Target Grade Level: 12

Key Ideas:

In feudal Japan, judges considered each case by its own merits and made no distinction between criminal and civil law.

The concept of right did not exist until the end of the Tokugawa period. Mitsukuri Rinsho, translated the French Civil Code and coined the word *Kenri* as the Japanese equivalent of droit.

Rights did not have to be written in Tokugawa Japan because a right can be defined as a legally protected interest. Since each case was decided on its own merits and the object was to preserve harmony *wa*, then rights did not have to be written in law.

Rationale:

By comparing how disputes are settled in both Japan and the United States, students will develop a better understanding of both cultures.

Skills:

Comprehension: Given a case, students will state the facts of the case and identify the issues involved.

Application: Students will apply the principles of *wa* to dispute resolution.

Analysis: Students will compare the way that the case would be handled according to the procedures protected by The Bill of Rights (1791).

Synthesis: Students will predict how Judge Ooka would have dealt with the real thief.

The Concept of Wa I I I

Materials:

1. Reading: "The Case of Jizo the Bound." (Handout A)
2. Teacher Background: "Dispute Resolution in Contemporary Japan." (See The Concept of Wa I)

Procedures:

1. Introduce the lesson by having students read Part One of "The Case of Jizo the Bound."
2. Ask the students to state the facts of the case and identify the issues involved.
3. Explain that in feudal Japan, judges made no distinction between civil and criminal cases.
4. Have the students review the rights of an accused person. Use the United States Bill of Rights (1791).
5. Ask the students to identify the rights of Yagoro. While he was accused by his employer, it was Yagoro who brought the case to court.
6. Have the students read Part Two of "The Case of Jizo the Bound."
7. Ask them to describe the role played by Judge Ooka. Discuss why he had the statue of Jizo arrested. Explain why he took the names of the onlookers.
8. Brainstorm possible ways that Judge Ooka could locate the thief.
9. Read Part Three of the case.
10. Compare the suggestions of the students with the manner in which Judge Ooka found the real thief.
11. Have the students predict how Judge Ooka would have handled the case of the real thief.

The Concept of Wa III

Evaluation:

Have the students write a one-page paper explaining why the Japanese found no need to develop a Bill of Rights in Tokugawa Japan. How were Yagoro's rights protected? Was justice realized and harmony preserved in the community? Discuss.

Relationship to Social Studies Standards:

Grade 12, People in Societies, Grade-level Indicator 1

I identify the perspectives of diverse cultural groups when analyzing current issues.

Grade 12, People in Societies, Grade-level Indicator 2

I identify causes of prejudice and demonstrate ways in which legal protections (including constitutional amendments and civil rights legislation) prevent and reduce discrimination.

Grade 12, People in Societies, Grade-level Indicator 3

Analyze ways countries and organizations respond to conflicts between forces of unity and forces of diversity (e.g., English only/bilingual education, theocracies/religious freedom, immigration quotas/open immigration policy, single-sex schools/coeducation).

Grade 12, People in Societies, Grade-level Indicator 5

Evaluate the role of institutions in guiding, transmitting, preserving and changing culture.

This lesson was originally developed by Dr. Betty Barclay Franks, teacher, Maple Heights City Schools and were revised by Dr. Kent J. Minor, Director, Ohio Japan Project.

The Concept of Wa III

Handout A

THE JUDGE OOKA TALES

"THE CASE OF JIZO THE BOUND"

Part One: The Problem

A man named Yagoro was an employee of Echigoya dry goods store. One hot summer day he was assigned to carry a huge load of cotton cloth on his shoulder. By the time he came to some welcome shade under a tree at a place called Honjo, he was very tired and wanted to rest for a few minutes. Beneath the tree stood a stone statue of Jizo. Yagoro put his head on the pedestal, lay down, and inadvertently dozed off. He woke up toward evening and, alas, he found the huge package was gone! Yagoro was dumbfounded. He looked all around the neighborhood and made inquiries about the missing cotton cloth. No one could tell him anything about it.

Dispirited, Yagoro went back to Echigoya and explained what had happened. Nobody believed his story. "Yagoro, you filthy wretch, you must have sold the cotton and spent all the money gambling or going to a house of pleasure. You must pay for the lost merchandise."

Yagoro could not possibly pay such a large amount of money. Having no other alternative, he went to the town court for help.

Part Two: The Trial

At court Judge Ooka ordered his men to go and arrest the statue of Jizo. The police surrounded the six-foot-tall stone statue. "Jizo, you are under arrest," they said, and tied the stone statue with rope. The spectacle drew quite a crowd of onlookers. The police with the help of the crowd loaded the statue on top of the cart and pulled it from Honjo to the courtroom at Sukiyabashi. The crowd followed the Jizo into court.

Thereupon Ooka started questioning the Jizo. In the beginning he paid no attention to the crowd, but suddenly he turned to them and said, "It is most disrespectful of you people to come into court without permission. You deserve

The Concept of Wa III

to be punished." The spectators were stunned. They tried to apologize for their behavior. But Ooka would not let them go free. He had the court clerk record their names and addresses and released them on the condition that they stay home until further notice.

Part Three: The Judgment

About two weeks later Ooka summoned them and ordered that each of them pay a bundle of cotton cloth as fine. "After all the case started with cotton cloth, so you pay the fine in cotton cloth," said Ooka. They all obeyed the order and paid the fine.

Then Ooka had Yagoro inspect each bundle of cotton cloth carefully. Among the many bundles, Yagoro identified two as containing the same cloth that had been stolen. By finding the place where the cloth had been purchased, Ooka then caught the real thief. From that time on, the Jizo came to be revered as "Wishing Jizo the Bound." And from this story came the belief that Jizo would fulfill the wish of anyone who tied him with a rope.

"The Judge Ooka Tales" in *As The Japanese See It: Past and Present* . Michiko Y. Aoki and Margaret Dardess; eds., (Honolulu: University of Hawaii Press, 1981), pp. 266-267.