

The Ideal Judge

Purpose:

This lesson is intended to provide students the opportunity to compare the role of judges in Japan and the United States.

Target Grade Level: 12

Topic:

Dispute resolution in Japanese society

Concepts:

- Confucian ethics
- Ideal judge
- Comparisons

Materials:

- "The Judge Ooka Tales" (See Concept of Wa Handouts) and "The Florida Family" (Handout B)
- Teacher Background: "Dispute Resolution in Contemporary Japan" (See The Concept of Wa I)

Key Idea:

In feudal Japan, judges considered each case on its own merits and ruled according to the principle of Confucian ethics.

Skills:

Application: Given the principles of Confucian ethics, students will apply them to dispute resolution.

Synthesis: Given a contemporary case, students will predict how Judge Ooka might have resolved the dispute.

Procedures:

1. Introduce the lesson by asking students to brainstorm a list of words which would describe judges in contemporary America.

The Ideal Judge

2. After having read three cases from "The Judge Ooka Tales," ask students to develop a list of words which would describe Judge Ooka.
3. Compare the two lists.
4. Explain that judges in feudal Japan were expected to live by Confucian ethics. Judges were to be virtuous individuals who set examples of ethical behavior. They were not to be corrupt and were to decide each case according to its own merits. Confucius called for filial piety, faith in friendship, and respect for others. He thought devotion and obedience were important values and believed that the state should look after people. Inferiors were to respect their superiors. Confucian ethics were rational, not mystical. Judges were expected to recognize the differences between good and evil and rule fairly.
5. Review the cases that the students read. Ask students to cite evidence that would support or refute the statement that Judge Ooka was an ideal judge.
6. Give the students the case involving the Florida family (Handout A). Ask the students to state the facts of the case and identify the issues involved. Divide the class into groups of three and have the students predict the manner in which Judge Ooka would have resolved the dispute.
7. Share the responses. Ask the students to read the case of the Florida family from the Japanese perspective. What does the case illustrate about the American system of justice?

Evaluation:

Give arguments for and against resolving disputes by the rule of law and the rule of society. Are there times, when a case should be considered independently of the law? Do Americans have a set of principles by which these cases could be decided? Does rule by law imply an objective standard?

To develop critical thinking skills, ask students to evaluate Judge Ooka. He was the ideal judge, but few Japanese living in the Tokugawa period would have

The Ideal Judge

taken a case to his court. Ask the students to explain why. What lessons did the mythical Judge Ooka teach the Japanese people about their culture? What lessons do the cases teach Americans about their culture? Discuss.

The Japanese have a proverb: "Officials are honored and the people despised." Did the Judge Ooka tales illustrate this proverb? 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 Ideal Judge

Handout A

THE CASE OF THE FLORIDA FAMILY

"LAWYERS, HOSPITAL TAKE ALL OF \$3.45 MILLION AWARD"

Fort Lauderdale, Fla. (AP) - An unemployed immigrant and his six children were forced to rely on charity despite winning a \$3.45 million malpractice suit because lawyers and a hospital caring for his comatose wife split the award.

Those involved say the treatment of Linval Ayton's family is entirely legal under Florida law, which does not recognize his 20-year common-law marriage, and does not allow the children to benefit unless their mother dies.

"We were sympathetic. All the judges were sympathetic," said J.B. Spence, the personal injury lawyer who handled much of the case. "But everyone was locked in a set of legal handcuffs. The culprit here is the law."

The tragedy for Ayton, 43, an illiterate Jamaican immigrant, began when his long-time common-law wife Maudeline Ford, then 42, entered the Broward Medical Center for what should have been a routine childbirth in January 1985.

Ford ran a small store and had been the only support of the family after Ayton ruptured a disk and lost his job as a school janitor.

But something went wrong during a Caesarean section to deliver the baby, and Ford's heart stopped. In the time it took to get her heart started again, Ford's brain suffered damage that has left her comatose.

The baby was born in excellent health.

Ayton's sister-in-law called lawyer Phillip Auerbach after seeing his ad on television, and Auerbach brought in Spence.

There is dispute over whether the lawyers told Ayton he and his children

The Ideal Judge

would be provided for under a possible settlement.

Whatever Ayton was told, quirks in Florida law deprived the family of any benefits from the \$3.45 million.

One quirk was that state law does not recognize common-law marriages, even though Ayton and Ford had been together almost 20 years.

The six children, ranging in age from 3 to 19, could have received money except for another twist - state law recognizes their loss of companionship only when the mother dies. And modern technology is still keeping her alive in the North Miami Medical Center, at the cost of a \$1,000 a day.

Ayton and the children wound up relying on the sister-in-law, who would sometimes drop off a chicken or a loaf of bread, and charity.

The sympathetic judge in the case, Circuit Judge James Reasbeck, tried to give the family \$104,000. But a probate judge forced Ayton to pay it back.

The lawyers say their 45% fee and thousands of dollars in expenses were legitimate and legal.

Ford won a total of \$1.8 million, but that money was put into a trust fund to pay for her medical expenses. Lawyers say the hospital bills will be paid out of the interest, and the children will eventually inherit the principal.

But the fund's administrator, Fred Koerner, assistant vice president of Barnett Banks, disputes that.

He said Ford's care now costs \$380,000 a year, and has used up almost half of the principal.

Ayton's family was saved from destitution eight months ago when the court agreed to parcel \$2,500 a month out of a trust fund on behalf of the five minor children.

Ayton, as their legal guardian, could petition the court to pull the plug on

The Ideal Judge

his comatose wife, whom he visits almost daily. That would allow the children to have what remains of the trust fund.

But he refuses.

"We have been poor all of our lives," said Ayton. "I can do without any of this money. Because to me, this money comes along like a kind of blood money."

"Lawyers, hospital take all of \$3.45 million award," *The Plain Dealer*, Cleveland, Ohio, March 14, 1988.