

The Role of Lawyers

Purpose:

This lesson is designed to enable students to compare the role of lawyers in Japan and the United States.

Target Grade Level: 12

Topic:

Dispute resolution in Japan.

Concepts:

- Rule by law
- Contractual society
- Rule by consensus
- ~~Wa~~-harmony

Key Ideas:

In Japan, disputes are most often resolved outside the formal justice system.

Skills:

Synthesis: Based on movies and television shows they have seen, students will make inferences concerning the system of justice in the United States.

Materials:

- Teacher Background: "The Role of the Law and Lawyers in Japanese Society." (See Mediation/Conciliation Lesson)

Activities:

1. Discuss the system of justice in the United States as portrayed in movies and television shows. Do they accurately portray the American concept of dispute resolution? Discuss.
2. Explain that the Japanese have a judicial system, but that most disputes are resolved outside the system.
3. Write the following statistics on the board and ask the students to draw

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inferences from them concerning the judicial system in Japan and the system in the United States.

There are 30,000 lawyers in Manhattan and 10,000 in all of Japan. Eighty percent of the cases in the world which come to trial are in the United States.

4. Explain that in Japan, contracts are viewed as tentative and that they contain “good faith” clauses. If the situation changes, the Japanese will re-negotiate the contract. The United States is a contractual society. If one party fails to honor the contract, a breach of contract suit will be filed. The terms of the contract are binding and will not be re-negotiated to meet changing conditions.
5. Ask the students to work together or individually to create cartoons, plays, or simulated experiences which would help Americans doing business or living in Japan to understand the Japanese attitude toward the law, lawyers, and contracts.
6. Share the products.
7. Asks students to identify the assumptions about human nature in a society where each case is considered to be different and the rule of society, not law, is applied.
8. Ask the students to predict whether or not the number of attorneys will increase in Japan as more Japanese companies do business in other parts of the world. Note that the largest law firm in Japan was founded by Americans in 1982—Anderson, Mori, and Rabinowitz. Today, Japanese attorneys urge their clients to consult them before entering contracts.

Evaluation:

Students will prepare a news article giving advice to Americans planning to do business in Japan. The topic will be the use of contracts in Japan.

Discuss the strengths and weaknesses of viewing contracts as tentative instead

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of binding.

The Japanese live by the following principle: A strong personal relationship should be maintained even though not economical.

Does this principle explain why the Japanese re-negotiate contracts? Discuss.

Is it sometimes inhumane to enforce a contract? Discuss.

Enrichment:

Ask a student to read and evaluate "The Multi-Door Courthouse: Settling Disputes in the Year 2000" by Frank E. A. Sander in *Barrister*, Summer 1976, pp. 17-21, 40-42. Compare his projections with the current Japanese system. Or see "The Dispute Resolution Center: An Alternative Form of Justice" in *People, Law and the Futures Perspective* by Betty Barclay Franks and Mary Kay Howard, National Education Association, 1979, pp. 40-42.

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 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.