

# PRACTICE OF LAW-RELATED EDUCATION TO DEVELOP LEGAL LITERACY

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## I. INTRODUCTION

The purpose of this paper is to introduce the practice of Law-Related Education to develop legal literacy in Japan, focusing on the practice of Law-Related Education in elementary school, the efforts of Law-Related Education by courts and bar associations, and the efforts of Law-Related Education for teacher training in teachers' colleges. The practice of Law-Related Education in elementary school is known as Justice Studies. One of the learning activities is a case study called *Soji Toban* (Cleaning Duty, hereinafter referred to as the *Soji Toban* case study), which conveys the idea of justice within the context of school culture, education and laws and rules in Japan. Recently, various efforts of Law-Related Education have been implemented to develop legal literacy for citizens, trainee teachers and teachers.

## II. PRACTICE “DISPUTE RESOLUTION: PUBLIC PARTICIPATION IN THE JUDICIAL PROCESS, MAKING RULES”

### A. Process of “Dispute resolution: Public Participation in the Judicial System, Making Rules”<sup>1</sup>

This section presents a *Soji Toban* case study developed by the Law-Related Education Promotion Council. *The Soji Toban* case study was published in “Whose rules? Considering Law-Related Education”<sup>2</sup>. The contents of “Whose rule?” are organized into four Law-Related Educational units. *The Soji Toban* case study is one of the learning activities in the third unit which is titled “Dispute resolution: participation in judicial judgment, making rules” for 6th grade.

Japanese schools have a custom of the *Soji Toban* that are different from foreign schools. Through this case study, elementary school children can learn the idea of fact-finding in the judicial system. After that, according to their awareness, they can come to know other problems in their classroom and learn to make rules to solve those problems by themselves.

The *Soji Toban* case study takes place based on the following facts<sup>3</sup>.

In xxx Elementary School, the time for cleaning is set between 1:00 and 1:15 in the afternoon.

The 6-1 Class is assigned to clean four places: its classroom (including a sink), a music room (4th floor), and stairs between the 1st floor and the 4th floor. The class has four groups, each of which is composed of eight pupils. Each group changes the place to clean every week among the four places. The music room has cleaning equipment to be used only for the room. Brooms and dustpans in a cleaning closet in the classroom are to be used for the classroom, the corridor, and the stairs. There are two dustpans in the closet, and pupils use one for both the classroom and the corridor, and the other for the stairs.

The goal of the 6-1 Class is “to clean as much as possible.” Every day, they finish the cleaning within the scheduled 15 minutes, and then the whole class enjoys playing tag or another game in the schoolyard.

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<sup>1</sup> Hokyoiikusuishinkyogikai. (2014). *Rulewa Darenomono: Minnade Kangaeru Hokyoiiku*. (Whose rules? Considering Law-Related Education). Homusho. pp. 46-68. (法教育推進協議会『ルールは誰のもの？—みんなで考える法教育—』法務省 2014年3月, pp. 46-68.)

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.* p. 52.

Work in this case is allotted as follows:<sup>4</sup>

There are 10 brooms and 2 dustpans in the cleaning closet in the classroom. The dustpans are shared by pupils to clean places (1), (2), and (3).

(1) Classroom	8 pupils (4 for sweeping the floor with brooms, 4 for wiping the floor)
(2) Corridor & sink	8 pupils (2 for sweeping the floor with brooms, 2 for cleaning the sink, 4 for wiping the floor)
(3) Stairs	8 pupils (4 for sweeping the floor with brooms, 4 for wiping the floor)
(4) Music room	8 pupils (there are cleaning tools only for the room)

The following problem occurs:<sup>5</sup>

One day, Ms. A on cleaning duty got angry, saying that some people skipped their cleaning duty. Mr. B and Mr. C, who were criticized by name as truants, retorted that they did not skip their duty. They started to quarrel, which did not settle down. Other pupils gathered anxiously. Other pupils who had finished cleaning the other places as scheduled came to see how things were going. They had waited for all the classmates to get together in the schoolyard, but noticed there were no pupils in charge of cleaning the classroom. In the end, they could not play tag with all the classmates, which they had looked forward to.

After the children assess what state the case is in, they and the teacher will conduct the following role-play<sup>6</sup>.

Teacher: What's the matter?

Ms. A (Classroom): Soon after we started cleaning the classroom, Mr. B and Mr. C disappeared. It is not the first time. They were getting along well, and they often chatted during cleaning time by shirking the cleaning duty. Even today, they disappeared as usual. Even when I tell them to clean, they always make excuses. I felt bad about their attitude.

Teacher: Was it hard to clean without the two of them?

Ms. A (Classroom): Today, one person was absent, which made it hard to carry desks. It was at least seven minutes since they disappeared. They were long coming. Therefore, we had to work much harder to complete the cleaning within the cleaning time. Mr. B and Mr. C are blameful, as they ignore the goal of our class, "Clean as much as possible."

Teacher: What were the two of you doing?

Mr. B (Classroom): She misunderstood us. It hurts me as I was engaged in cleaning seriously. I was on cleaning duty with a broom. I went to the closet to take a dustpan, but there was no dustpan. Feeling strange, I asked people in charge of cleaning the corridor and the stairs where the dustpan was. When I finally found it and came back, she criticized me for having avoided the cleaning duty. I think it is unreasonable. In the first place, it was only twice that we were accused of chatting during cleaning time.

<sup>4</sup> *Ibid.* p. 53.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.* pp. 54-55.

Mr. C (Classroom): Mr. B was cleaning the classroom. When I heard there was no dustpan, I went with him to search for another dustpan. A person in charge of cleaning the corridor told us that persons in charge of cleaning the stairs use both. Therefore, I instantly went to the people in charge of cleaning the stairs. First, we went downstairs to the first floor and asked the person in charge of cleaning the stairs on the first floor for a dustpan. But we were told we couldn't use it. Then we went upstairs to the fourth floor and waited for a person to finish using a dustpan. Finally, we got the dustpan and returned. Yet, we were accused of having skipped the duty, and nobody listened to us. It is unreasonable. Unless we fetched a dustpan, we could not gather any trash.

Teacher: Ms. D, you were in the corridor, weren't you?

Ms. D (Corridor): I was cleaning the corridor. As Ms. A said, Mr. B and Mr. C were not in the classroom for a long time. I saw them going out of the classroom together. After a while, they were near the stairs. I saw them fooling around. Mr. B was tickling Mr. C in the ribs, and Mr. C burst into laughter. They did not seem to be looking for a dustpan. As they were always talking about soccer, they must have been talking about it then. In the first place, only one person is enough to pick up a dustpan. There is no need for two persons to fetch it.

Teacher: Mr. E, you were in the stairs, weren't you? Did you see two of them?

Mr. E (Stairs): Mr. B and Mr. C came to the stairs. I was on the fourth floor, and they ran up the stairs from the first floor. As I was using a dustpan, I had them wait for a while. Later I heard that a first grader turned over a trash can on the first floor and tiny pieces of wastepaper were scattered on the stairs. Therefore, people on the first floor could not give them the dustpan.

Teacher: Ms. D said that you and Mr. B were fooling around.

Mr. C (Classroom): Ms. D said I was fooling around, but that means that she kept looking toward the stairs without cleaning the stairs. I believe it is she that skipped the cleaning duty. As Ms. D has bad eyesight, she might mistake somebody else for me. Or, as she is good friends with Ms. A, she is convinced that we always skip cleaning duty. First, we tried to retrieve the dustpan from a person on the first floor, but failed. Then, we went up to Mr. E on the fourth floor. Again, we were told to wait. We went downstairs to the third floor and waited for Mr. E to return the dustpan there. Come to think of it, Mr. B cleaned some dirt off my clothes while we were waiting. I'm sure his action seemed playful to her.

In the case, Mr. B & Mr. C asserted that they did not skip cleaning duty, Ms. A asserted that they did skip cleaning duty, Ms. D testified that they did skip cleaning duty, and Mr. E testified as an unbiased witness that Mr. B and Mr. C had been looking for a dustpan and that one had not been returned from the first floor. Children get into character as Ms. A, Mr. B, Mr. C, Ms. D, and Mr. E, and they all explain what they experienced.

The teacher will ask the children, "What's the matter?" "Was it hard to clean without the two of them?" "What were the two of you doing?" "Ms. D, you were in the corridor, weren't you?" "Mr. E, you were on the stairs, weren't you? Did you see two of them?" "Ms. D said that you and Mr. B were fooling around."

The process of *Soji Toban* has mainly 6 steps:<sup>7</sup>

- ① Read the case *Soji Toban*
- ② Do the role-play.
- ③ First, think about whether Children B & C did or did not skip cleaning duty in your opinion. Why did you think so?
- ④ Discuss the *Soji Toban* case. Think about whether Children B & C did or did not skip cleaning duty in

<sup>7</sup> *Ibid.* pp. 50-60.

the group's opinion.

- ⑤ Present the group's opinion.
- ⑥ Then, after discussion, think about whether Children B & C did or did not skip cleaning duty in your opinion. Why did you think so? Did your opinion change?

When children look back on their experiences during the case study, they come to consider:<sup>8</sup> firstly, “When judging what was true, what kinds of things should you be careful about?”, such as being careful in forming one's judgment and being conscientious of resolving all conflicts; secondly, viewing and thinking about justice; thirdly, the comparison of the *Soji Toban* case with trials; and fourthly, the interest in the lay judge system.

**B. Child's Legal Viewing and Thinking Model**

In the process of legal thinking, which is one of problem solving, there are several states including the “stage of searching for legal norms for problem solving”, “stage of interpreting and applying the founded norms”, “examining the results and making decisions stage” and “the stage legally justifying the decision”<sup>9</sup>.

Given the discussions over these stages of legal thinking, children's legal views and thinking can be hypothetically represented graphically as the figure below indicates<sup>10</sup>.

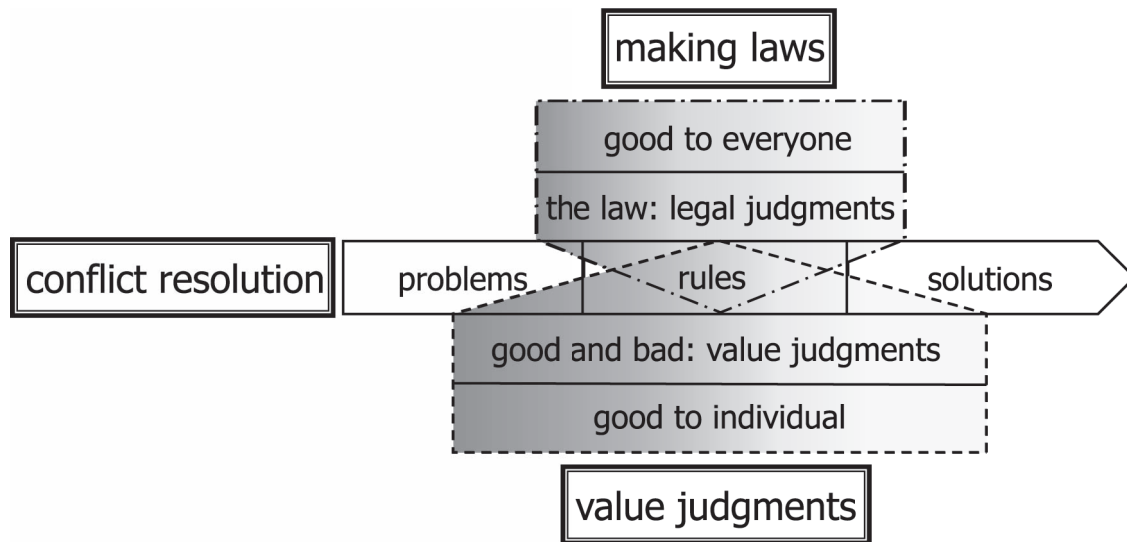


Fig. Child's legal viewing and thinking model

⟨Fumihiko TAKAHASHI. (2013). *Hotekishikoto Ronri*. Seibundo. p.227. In reference to Fig.10-3, author designed from child's perspective.⟩

The child's legal viewing and thinking works in a series of “conflict resolution” processes such as finding problems, applying rules, and thinking of solutions. The child's legal view and thinking work greatly, among other things, when the child applies rules. Specifically, the child will analyze problems to solve using two viewpoints such as “making laws” by legislators entrusted with legislation and “value judgments” for benefits and costs to individuals. From the viewpoint of “making laws”, the child will consider based on the “legal judgment” criteria of laws and articles made by agreeing to be “good to everyone”. From the viewpoint of “value judgments”, the child will consider based on the criteria of whether the values are “good for the

<sup>8</sup> *Ibid.* pp. 61-64.

<sup>9</sup> Keizo YAMAMOTO. (1997). *Hotekishikono Kosoto Tokushitsu: Jikorikaino Genkyoto Kadai*. Masahiko IWAMURA, et al. eds. *Gendaihogakuno Shisoto Hoho. (Iwanamikoza Gendaino Ho 15)*. Iwanamishoten. pp. 256-258. (山本敬三「法的思考の構想と特質—自己理解の現況と課題—」岩村正彦他編『現代法学の思想と方法 (岩波講座現代の法 15)』岩波書店, 1997年6月, pp. 231-268.)

<sup>10</sup> Fumihiko TAKAHASHI. (2013). *Hotekishikoto Ronri*. Seibundo. pp. 193-232. (高橋文彦『法的思考と論理』成文堂, 2013年, pp. 193-232.)

individual” or good for everyone. The child will think about events in social life and act to solve problems while going back and forth through legal viewing and thinking processes.

### III. IMPORTANCE OF COOPERATION WITH LAWYERS AND EDUCATORS FOR EFFECTIVE LAW-RELATED EDUCATION

#### A. Law-Related Education to Develop Citizenship

The author’s idea of citizenship is to encourage society to realize a better society, interested in problems that are occurring in society, and discussing cooperatively with diverse people toward solving the problems<sup>11</sup>. In the field of social studies, citizenship is generally defined as “knowledge, understanding, ability, attention, attitude required as a member of the state and society.”<sup>12</sup>

The role of Law-Related Education to develop citizenship is as follows. Firstly, it is to be interested in the legal issues that are happening in society. Secondly, it is to discuss cooperatively with diverse people toward solving legal problems. Thirdly, it is to utilize viewing and thinking of legal things.

Jane Jenson explains that contemporary issues involving citizenship and law include citizenship requirements and their limits, the relationship between citizenship and democratic rules, and defining citizenship with a national perspective<sup>13</sup>. Such a reaffirmation of citizenship has had influence on the meaning of legal literacy. Legal literacy as an aspect of citizenship will be discussed, firstly, as participation in the political community in light of one’s rights and responsibilities, secondly, as democratic participation and, thirdly, as participation as a member of the nation.

#### B. Law-Related Education to Educate Citizens

Law-Related Education in the United States is addressed as part of education for citizens. At that time, education for citizens is expressed in three phrases: “civic education” “citizenship education” or “public education”. Law-Related Education as Civic Education is positioned in political education and civic education to foster citizens who can make decisions<sup>14</sup>. Law-Related Education as Citizenship Education refers to one approach to developing citizenship such as multicultural education, environmental education and Education for Sustainable Development (ESD)<sup>15</sup>. Law-Related Education as Public Education is considered as an educational activity for those who are not legal experts<sup>16</sup>.

“Lawyers in the Classroom”<sup>17</sup> by the American Bar Association shows the importance of cooperation between lawyers and educators through suggesting the way to prepare for Law-Related Education classes. Specifically, those are to call the school, prepare, think about the student, observe the time, talk with eyes, ask for opinions and urge questions, participate actively, meet as a real person, be lively, ensure both sides of the debate are addressed, frequently ask students questions, share personal experience with the matter, teach in cooperation with teachers, refer to bulletin boards and postings, call on some students, walk around the classroom, enable students’ questions and reactions to be heard throughout the class, prepare 35 copies, and leave the distribution to the teacher.

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<sup>11</sup> Kyoko ISOYAMA. (2016). Shogakko Shakaikaniokeru Houtekiliteracyo Ikuseiwo Mezasu Jyugyono Koso: Hotekisankagakushuno Jireiwo Tsujite. Kiyoshi KARAKI, ed. *Komintekishishitsu'towa Nanika: Shakaikano Kako · Genzai · Miraiwo Saguru*. Toyokanshuppansha. pp. 26-27. (磯山恭子「小学校社会科における法的リテラシーの育成を目指す授業の構想—法的参加学習の事例を通じて—」唐木清志編著『「公民的資質」とは何か—社会科の過去・現在・未来を探る—』東洋館出版社, 2016年, pp. 26-27.)

<sup>12</sup> Akihide TANIKAWA. (2000). Komintekishishitau. Nihonshakaikakyoyokugakkai. ed. Shakaikakyoyokujiten. Gyosei. pp. 53-55. (谷川彰英「公民的資質」日本社会科教育学会(編)『社会科教育辞典』ぎょうせい, 2000年10月, pp. 54-55.)

<sup>13</sup> Jenson, Jane. (2006). Introduction: Thinking about Citizenship and Law in an Era of Change. Law Commission of Canada. ed. *Law and Citizenship*. UBC Press. pp. 3-21.

<sup>14</sup> Niemi, Richard G. and June, Jane. (1998). *Civic Education; What Makes Students Learn*. Yale University. p. 29.

<sup>15</sup> Parker, Walter C. and Kaltsounis, Theodore. (1986). *Citizenship and Law-Related Education*. Atwood, V. A. ed. *Elementary School Studies: Research as a Guide to Practice*. National Council for the Social Studies. pp. 14-33.

<sup>16</sup> Peck, Robert S. and White, Charles J. eds. (1983). *Understanding the Law: A handbook on Educating the Public*. American Bar Association.

<sup>17</sup> White, Charles, ed. (1984). *Lawyers in the Classroom*. American Bar Association Special Committee on Youth Education for Citizenship.

### C. Law-Related Education as Public Education

Law-Related Education in Japan as Public Education is implemented through various efforts by organizations such as the Ministry of Justice, the Ministry of Education, Culture, Sports, Science and Technology, the Japan Federation of Bar Associations, other bar associations, the Japan Federation of Shihoshoshi Lawyers Association, each Shihoshoshi Lawyers Association, and the Supreme Court. Below, the efforts of Law-Related Education by courts and bar associations are introduced<sup>18</sup>.

Law-Related Education by courts is implemented by lectures by judges, mock trials or mediations, court visits and the creation of audiovisual teaching materials<sup>19</sup>. In 2002, the Kanto Bar Association held a symposium on the theme of “Law-Related Education for Children”. On April 19, 2003, the “Law-Related Education Committee for Citizens” was established. The “Law-Related Education Committee for Citizens” is aimed at the following:<sup>20</sup> firstly, the formulation and practice of Law-Related Education to nurture and support members in the free and fair democratic society; secondly, the research and development of teaching materials for Law-Related Education in schools etc.; thirdly, information exchanges with educators concerning Law-Related Education; and, fourthly, other measures necessary for achieving the above-mentioned measures.

## IV. TEACHER TRAINING EFFORTS IN LAW-RELATED EDUCATION

The efforts of Law-Related Education for teacher training at Shizuoka University as a teachers' college are cooperation with the Ministry of Justice, cooperation with the Japan Federation of Bar Associations and the Shizuoka Bar Association, cooperation with the Court, the investigation of the judicial systems in other countries, and practicing Law-Related Education lessons.

Firstly, through cooperation with the Ministry of Justice, officials and students discuss development of Law-Related Educational teaching materials and classes. Sometimes students can meet “Hourisu-kun” which is a character created by the Ministry of Justice for Law-Related Educational events. Secondly, mock trial competitions for high school students are organized by the Japan Federation of Bar Associations. Students learn how to participate in mock trials in high school in preparation for the event. Sometimes, students can meet “Saisai” which is a lay judge character created by the Japan Federation of Bar Associations in Law-Related Educational events. Thirdly, students participate in a trial tour for university students organized by the court. Fourthly, students interviewed judges and prosecutors in Guam and Helsinki. Fifthly, students visited the border in Tijuana and learned the meaning of citizenship, equality and human rights from their experience. Sixthly, students as pre-service teachers practice Law-Related Educational lessons in junior high schools. Specifically, Law-Related Educational units include ‘Contract’, ‘Judicial System’, ‘Conflict and Agreement’. These practices can improve their instructional skills to teach children Law-Related Education. Seventhly, through cooperation with the Shizuoka Bar Association, students used the courtroom to teach junior high school students about Law-Related Education.

## V. CONCLUSION

This paper has shown the practice of Law-Related Education to develop legal literacy in Japan. Law-Related Education is provided to non-lawyers such as children and students, citizens, and trainee teachers and teachers as a part of teacher training. To enhance the effectiveness of Law-Related Education, cooperation between educators and lawyers is important.

However, there are a number of challenges to cooperation between lawyers and educators. These challenges include: firstly, the necessity of planned and ongoing projects; secondly, the support for autonomy of lawyers and educators; thirdly, the investigation of the effects of Law-Related Education through

<sup>18</sup> The efforts of Law-Related Education by the Ministry of Justice can be found in my copy ‘Current Situation and Challenge for Law-Related Education’, same Resource Material Series.

<sup>19</sup> Hokyokukenkyukai. (2005). *Hajimeteno Hokyoku: Wagakuninikeru Hokyokuno Fukyu · Hattenwo Mezashite*. (First Law-Related Education). Gyosei. pp. 149-150. (法教育研究会『はじめての法教育—我が国における法教育の普及・発展を目指して—』ぎょうせい, 2005年3月, pp. 149-150.)

<sup>20</sup> Nihonbengoshirengokai. *Hokyokutte Nani?* (日本弁護士連合会「法教育ってなーに？」) (<https://www.nichibenren.or.jp/activity/human/education.html>) (visit; 2018.1.5.)

cooperation between lawyers and educators; fourthly, the clarification of legal qualities and abilities required of teachers; and, fifthly, the improvement of teacher training for Law-Related Education. It is hoped that Law-Related Education will be more deeply discussed and practiced by various people being actively involved.

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Additional Statement: This paper is rewritten in English by referring to the references, especially my copy.