

Don't Forget About Law: A Case For Law-Related Education In Elementary Social Studies

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Abstract

In this article I argue that greater attention should be given to the law-related education dimension of social studies education. I posit that a basic understanding of law and its role in society and in our lives is fundamental to the social studies citizenship mandate. Law-related education may be incorporated in elementary social studies in several different ways: highlighting the legal aspect of a topic or theme found in the social studies curriculum; using legal procedures as strategies for addressing social studies topics and promoting critical thinking objectives; using law as a way to integrate social studies with language arts; and modeling and practicing law-related principles through the informal curriculum of school policies and practices.

When elementary teachers are asked if they teach law, they usually say something like: "Pardon me? Law? Of course not! I'm a teacher not a lawyer." Yet everyday in classrooms and on school playgrounds, teachers and students encounter law-related issues.

"Hey, that's not fair!"

"She hit me!"

"Stop peeking at my answers!"

"He called me a bad name!"

"She owes me \$5.00!"

"Hey, do you want to hear the new CD I burned from the net?"

"Someone rifled through my desk!"

"You're a bully!"

The law has much to say about getting along with others, respecting people's property, the

right to privacy, making fair decisions, keeping promises, and making sure that rules are applied fairly to all. Students learn about law through experiencing the policies and practices in place schools, and teachers regularly make decisions that either support or counter legal principles.

Even though the word "law" is not prominent in elementary social studies documents, much of the curriculum is related to law (Cassidy, 2004). For example, rights and responsibilities of family and community members, government and the Charter of Rights and Freedoms, the founding of Canada, exploring the West, First Nations' issues, immigration and our multicultural mosaic, the environment, Canada and its place in the world. An understanding of law and its role in society is foundational to social studies education and to cultivating informed and empowered citizens (Cassidy, 1998, 2000; Ferguson, 1997). Although some social studies teachers acknowledge that law-related issues warrant more attention, many feel bombarded with the many things they need to teach and are reluctant to take on new challenges (Bognar, Cassidy & Clarke, 1997).

In this paper, I argue that law-related education is fundamental to social studies and not an optional "add-on," and that issues of law may be addressed in engaging ways that support and enhance the curriculum, rather than adding to an existing workload.

Law and Social Studies Education

The term "law-related education" (LRE) is a term coined some thirty years ago (McKinney-Browning, 1998; Starr, 1989) to describe the kind of education about law that is appropriate for students in school to study, and to distinguish it from the kind of legal education lawyers undertake. Lawyers need to know the facts and details about various areas *of* law, whereas students in school need to learn *about* law and its role in society and in our lives (Ferguson, 1997). Although it may be appropriate to study particular laws from time to time (perhaps more so at the secondary school), the emphasis of LRE is on helping students gain a broad understanding of why we have laws, the sources of law, legal institutions and structures and other aspects of the foundations of law (Case, 1985; Cassidy, 1998, 2000, 2004; Yates, 1997).

The content of LRE reflects the ideas or concepts that underpin the legal system--notions such as rights, responsibility, authority, justice, and the common good. LRE examines the values or beliefs embodied in our law, such as respect for property and human life. LRE involves developing basic citizenship attributes—such as critical thinking and conflict resolution—to help students participate effectively in a legally regulated world and to effect change when laws no longer reflect the kind of society we want as citizens. LRE encourages active learning and the use of community resources and sites to gain a realistic look at the legal system in operation. Reducing cynicism, understanding the limitations of law and assuming some responsibility for making the legal system responsive to people's needs are important objectives for LRE (Ferguson, 1997).

Law-related education is about developing a more critically aware and socially responsible citizenry, and about giving students skills to make a positive difference in the community and nation (Cassidy, 2000, 2004a). These aims are integral to the expectations of social studies education; that is, preparing our young people for citizenship, developing students' abilities to think critically about issues, and encouraging students to take action to make the world a better place (Marker and Mehlinger, 1992; Newmann, 1989). A participatory democracy requires a citizenry that is informed, makes good judgments, and has the tools to effect change. Law professor Kindred (1979, in Ferguson, 1997) notes that the "measure of good

citizenship is not inculcated conformity, but a healthy respect for the rights of others as well as one's own, and an allegiance to orderly processes, even in diversity. The character of law encourages such critical, yet constructive attitudes" (p. 534).

If social studies education helps to prepare students for understanding the world in which we live, then it is also important that students understand that the law influences everything we do as people, even children of elementary school age. The law regulates the kinds of homes we live in, how we treat our pets, the obligations parents have to their children, the hours students must be in school, where children can ride their bicycles or skateboards, the food we eat, the advertising we are exposed to, what we can say to others, the movies we see and the books we read. Federal, provincial and municipal laws are pervasive and the number of laws we need to become familiar with is growing as legislators resort to passing more and more laws in their desire to regulate and shape society. Since ignorance of the law is not a justifiable excuse for breaking a law, it is important that students understand the over-reaching influence of law in our lives and know how to access the information they need to function as informed citizens. The social studies curriculum provides this opportunity.

How to Teach the Law Component of Social Studies

Many teachers feel overwhelmed by expectations of the curriculum and the demands to increase students' test scores (Bognar, et al, 1997; Kohn, 2000). There are many competing influences that seek to make inroads into the curriculum and place demands on teachers' time. Law-related educators argue that they are not asking for anything extra; that law is already embedded in the curriculum and teachers only need to re-focus their lens on this aspect of social studies (Cassidy, 2004; Cassidy & Yates, in press). Further, that LRE is essential to meeting the expectations of the curriculum.

Generally there are four main approaches to addressing LRE in elementary social studies: 1) highlighting the legal aspect of a topic or theme found in the social studies curriculum; 2) using legal procedures as strategies for addressing social studies topics and promoting critical thinking objectives; 3) using law as a way to integrate social studies with language arts; and 4) modeling and practicing law-related principles through the informal curriculum of school policies and practices.

1) Highlighting the legal aspect of an existing topic or theme

Since much of social studies content already relates to law, the teacher merely needs to focus the lens of study on the legal aspects of a given topic. For example, when studying early First Nations societies, the teacher may address the strong relationship between aboriginal people and the environment, and how this plays out today in conflicts over land claims, or logging and fishing rights. The settlement of the West is replete with examples of land acquisition, trade relationships, and inter-cultural conflicts. The study of immigration provides opportunities to examine societal values regarding multiculturalism, diversity, and human rights, and how these are played out in government policies and legislation.

The courts and the judiciary are integral to any study of government and democracy. The courts play a crucial role in interpreting laws made by Parliament, with the Supreme Court of Canada being the ultimate authority. All citizens are governed by the rule of law and are subject to the laws of the land. The Charter of Rights and Freedoms embodies values and beliefs Canadians hold dear. While many students may never have the opportunity to visit their local legislature or see Parliament in action in Ottawa, most communities have a local

courthouse where students may view a trial in progress or conduct their own mock trial in evening hours. Often local lawyers, judges, police officers or youth justice workers are willing to come to schools and talk with students.

The study of the community may be enhanced by expanding the discussion from the typical services such as police, firefighters, postal service, and the mayor's office, to services with a law-related focus, such environmental protection agencies, native friendship centres, child advocates, preservation societies, animal rights groups, immigrant services societies, consumer protection agencies, labour relations boards, mediation services, multicultural organizations, media watch, internet regulators, and so on. An examination of these resources provides students with a much richer picture of the community in which they live.

It is almost impossible to discuss a current event without attention to law, as law pervades almost everything we do. Issues of interest to elementary students, like saving endangered species, building a new community swimming pool, wearing uniforms in school, looking after stray animals, preventing bullying behaviour, are all related to law.

2) Using Legal Procedures to Address Topics and Foster Critical Thinking

The processes used in law to investigate an incident or to solve a problem work well as tools for examining social studies topics or addressing critical thinking objectives.

The Case Study

The case study is one example. Decisions made by judges to solve a conflict between parties are written up as case law. Each case follows the same format, very similar to an inquiry model of problem solving (Joyce and Weil, 1996): outline the facts; identify the key issue(s), discuss the key arguments; make a decision; justifying the decision. Cases are also built around stories—stories of people or groups who face dilemmas or conflicts. Stories can be real or fictional, current or historical, and because of the story format, they engage the learner (Egan, 1986, 1992). In the process of doing a case study students hone important social studies skills such as separating relevant facts from irrelevant ones, synthesizing the issues into one key problem or question, articulating alternate perspectives, coming to a reasoned decision, and justifying the decision with logical and persuasive reasons (Bognar et al, 1997).

Case Study Method

- **Find the facts.** Students determine relevant facts. Describe the sequence of the story.
- **Frame the issue(s).** Identify the main issue and frame the issue as a question.
- **Discuss the arguments.** Articulate the arguments from each side.
- **Reach a decision.** Decision must follow from the arguments, and be conveyed clearly.
- **Examine the reasoning.** The decision must be backed up with reasons. Judges sometimes disagree with each other. In classroom situations, students may come to different conclusions, but each conclusion must be plausible and justified.

The following is an example of a neighborhood dilemma written in a story format and using the legal case study method to examine the issues and reach a conclusion.

Between the Suni's yard and the Foster's yard stands a beautiful, massive tree. The Foster ancestors planted the tree a century ago, and over the years the trunk of the tree expanded so that half the trunk and many of the branches extended over the property line into the Suni's yard. The four Suni children loved to climb the tree and play in it. The Fosters didn't seem to mind when Jo Suni, the oldest child, built a tree house in the branches and slept there with a friend on hot summer evenings. The Foster children had long left home, so they liked to see children playing outside.

The Fosters, however, were getting older and hated to rake up the leaves and prune the branches. They also wanted more daylight as the tree blocked the sun. The Sunis, on the other hand, were grateful for the shade the tree provided on the hot west side of their house. Only last week, Mrs. Suni told Mrs. Foster how much she enjoyed the shade from the tree.

One day Mr. and Mrs. Foster got fed up with tree and while the Sunis were on holidays arranged for the tree to be chopped down. When the Suni family returned, they were devastated. The younger children cried for days. When the Suni tried to talk to the Fosters and ask why they did it, they got defensive and said, "Well, it was our tree and we had a right to do with it what we want." Mr. Suni said: "Well, I'm not so sure; it was also on our property too; you have no right! Besides, we've used it for years, and you didn't seem to mind!"

The Sunis want to plant another tree in the empty spot, but can't afford to buy a large one unless they collect compensation from the Fosters for loss of enjoyment of their property. The Fosters are adamant that they don't want another tree planted in that spot. The Sunis decide to take the Fosters to court for loss of enjoyment of the tree, and to seek damages of \$1000 to pay for a new large tree.

Divide the class into small groups of three students each. One student plays the role of the plaintiff, the Sunis. One student plays the role of the defendant, the Fosters. The third student plays the role of judge who hears both sides of the issue, asks questions of each party, determines whether the Sunis have a legitimate case against the Fosters, and if so, whether damages and court costs should be awarded.

In preparation for the short role-play each side takes notes in support of their argument. During this preparation phase, the judge reads through the case and records questions to ask. After hearing the case, the judge has several options:

1. Rule in favour of the Sunis and make the Fosters pay them \$1,000 plus court costs;
2. Dismiss the claim against the Finns, which would require the Sunis to pay the courts costs of both parties;
3. Decide on a middle ground; both parties pay their own courts costs, and the Finns pay a lesser amount to the Sunis. Or, both parties come to a mutually agreeable size and type of tree and plant it in a spot where both agree. Or, another plausible conclusion.

Once the judge in each triad has heard the case and made a decision, the decisions can be shared with the rest of the class. The teacher may then discuss such broader issues as: Why were there different decisions? What were the most convincing arguments? What aspects of law would you have liked to know more about before you reached your decision? Is the court the best way to resolve a problem like this one?

The teacher may then ask all students to pretend they are the judge and write a judgment using the case study format.

The Mock Trial

Mock trials have been used in social studies classes to address historical issues, current events, or as a way to integrate social studies with language arts (Cassidy and Yates, in press; Gascoigne, 1998; Hou and Hou, 1984; Hawkins and Barnett, 2000; Norton, 1992; Yates, 1998). In a mock trial, students put a character on trial and then simulate the process with students playing the roles of the accused, the witnesses, court personnel and media. Classes have re-tried Louis Riel, examined a gold rush case of murder under the infamous Hanging Judge, Matthew Baily Begbie, investigated the case of a missing social studies exam, run a school Litter Court, and put such fairy tale characters on trial as Goldilocks, Hansel and Gretel, Peter Rabbit, and Peter Pan. Current events also provide many engaging dilemmas that may be developed into a mock trial.

In the preparation phase for the trial students work cooperatively in small groups: the group for the defense, the group for the prosecution, court personnel, and the media. In this phase students learn some of the basic rules and procedures of a trial, develop the role of their character, and work with teammates to prepare the best possible case from their perspective. During the trial students experience the trial and encounter first hand important democratic concepts such as innocent until proven guilty, the right to a fair trial, reasonable doubt, the need for an impartial arbiter, appropriate punishment to fit the crime. During the simulation, students identify with the various players in the court system, and better appreciate what an accused or a witness might experience. They hone skills of argumentation, listening, questioning, debating, and communication. Follow-up discussions allow students to investigate such issues as whether the adversarial model is the best way to solve disputes, the value of juries, whether the media should be excluded from court rooms, the role of an advocate such as a lawyer, and so on.

Trials may be relatively simple, conducted as an in-class role-play, or they can be more complex, incorporating costumes and props and conducted in the local courthouse or some other public place with a real member of the judiciary or legal profession presiding. The criminal mock trial procedure is as follows:

- Sheriff calls the court to order.
- Lawyers introduce themselves.
- Court Clerk reads out the charges.
- Accused pleads "guilty" or "not guilty" to charges.
- Prosecution makes an opening statement saying what they hope to prove and listing the witness they plan to call.
- Prosecution calls the first witness to the stand.
- Defense cross-examines the witness.
- (Repeat until all of Prosecution witnesses are called.)
- Defense makes opening statement, and lists the witnesses they plan to call.
- Defense calls their first witness.
- Prosecution cross-examines the witness.
- (Repeat until all of Defense witnesses are called.)
- Defense makes closing argument to jury.
- Prosecution makes closing argument to jury.
- Judge speaks to jury to encourage them to make an impartial decision.

- Jury discusses both charges & determines guilty or not guilty of each charge.
- Court clerk asks jury foreperson to read out the verdict.
- Judge sentences the accused if guilt is found on one or more charges.

Alternate Dispute Resolution Processes

Most often there are better ways to solve disputes than by resorting to the courts. The court process is expensive, time consuming, and often results in people being more estranged or feeling like a decision is forced on them by a third party. More and more, people are resorting to alternate dispute resolution processes to resolve difficulties. One such method is mediation. In this method parties work together with the help of a third party to come to a mutually agreeable decision. This involves give and take, with each side letting go of certain demands or moderating others in order to come to an agreement.

This procedure may be simulated in class, with students learning listening and negotiating skills in the process. Students are presented with an issue, either from history or current day, and then work in one of the disputant groups, or in the mediator group, to come to a solution. Here is another neighbourhood issue, which uses the strategy of a mediation to reach a solution.

The local SPCA is very overcrowded with dogs and cats, and no one in the community is adopting any animals. Some of the animals at the shelter are sick and the SPCA is worried that the sickness might spread to all animals. As well, the SPCA is running out of money to care for the animals. They decide that they will shut down the SPCA, euthanize the sick animals and send the other animals elsewhere. They are tired of begging for money to support the shelter, and no one seems interested in adopting any animals.

The local children in the local elementary school have learned about the plan and are very upset. They want the sick animals helped, and they don't want the shelter shut down. They think the SPCA should stay open because there always needs to be a place for animals that don't have homes. The children are so upset that they have begun a letter writing campaign to the newspaper and have prepared posters to put up around the neighborhood.

Can a solution be reached? Divide the class into three groups.

One group plays the SPCA.

Another group plays the children.

A third group acts mediator who hears both sides of the problem, and works with the sides to arrive at a mutually agreeable solution.

3) *Using law as a way to integrate social studies with language arts*

Since the law reaches into every aspect of human behaviour, it is embedded in the children's literature read in Language Arts classes. Stories are full of examples of conflict between heroes and villains, dilemmas involving right and wrong, and responsible and irresponsible behaviour. Issues of fairness, justice, equality, privacy, authority, and responsibility pervade children's stories, as demonstrated by the following three examples.ⁱ Children's literature also provides a rich source of material for case studies, role-plays and mock trials about law-related issues.ⁱⁱ

Ering, Timothy Basil. *The Story of Frog Belly Rat Bone*. Cambridge, MA: Candlewick Press, 2003.

Cementland is grey and ugly. One day, a boy finds a special and mysterious treasure that promises to change Cementland into an enjoyable place. When thieves steal the treasure, he must come up with a creative plan to thwart them and save the treasure.

Issues: Who legally owns the treasure? What punishment should the thieves face? If the thieves have a change of heart, should the charges be dropped? What are the rights and responsibilities of the citizens of Cementland?

Levine, Arthur A. Pearl Moscovitz's Last Stand. Illustrated by Robert Roth. New York: Tambourine Books, 1993.

The neighbourhood on Ginkgo Street has experienced many changes throughout the years. Friendships flourish as new families arrive from new cultures, but one by one, the cherished ginkgo trees have disappeared. When City Hall decides to remove the last tree, in the name of progress, Pearl Moskowitz gathers the community together to take a stand.

Issues: How can a community exercise democratic involvement and have a meaningful effect on civic decisions? Are there times when civil disobedience is the only option? What is a good balance between protection of the environment and "progress"?

Miller, William. The Bus Ride. Illustrated by John Ward. New York: Lee & Low Books Inc., 1998.

In this story an African American girl and her mom challenge an unjust law. Though they must sit at the back of the bus, one day the little girl moves up to the front - causing a huge discussion across the city. This story is loosely based on Rosa Parks' historic decision not to give up her seat to a white passenger on a bus in Montgomery, Alabama, in 1955.

Issues: What are some ways that discrimination and racism may be overcome? Can the law be used to suppress human rights, and at other times, to support human rights? How can we go about changing laws we think are wrong?

Wildsmith, Brian. The Owl and the Woodpecker. Oxford University Press, 1993.

The animals in the forest hold a meeting to try to resolve a problem between two members of their community who are fighting. Woodpecker is creating a noise during the day when Owl is trying to sleep. Neither of them will move. The peaceful life of the forest is being destroyed.

Issues: How does a community resolve a problem between two members who both think their side is right? Who has a legal right to stay? What obligations do the woodpecker and the owl have to do to preserve the peace? How can diversity be accommodated?

4) Modeling and practicing law-related principles through the informal curriculum

Social studies teachers would be remiss if they took time to highlight law-related content and skills through the formal curriculum, yet failed to consider the powerful influence of the informal curriculum (Jackson, Boostrom, Hansen, 1993) in communicating law-related messages to students. Teachers who teach about democracy and the rights of its citizens need to give students opportunities to experience democratic processes and to practice their rights

and responsibilities. How will teachers go about engaging students in creating a classroom community based on principles of respect, human dignity, fairness, individual differences, and the common good? In what ways will students have input into decisions in the classroom? Will classroom rules be fair, and if they need to be changed, what processes are in place to do so? If a decision seems unfair, is there recourse to rectify an injustice? While teachers have the role of responsible adult in the classroom, the learning community is enhanced when students feel like their views are important and they have a role to play in helping to build a positive learning environment.

The growing interest in social responsibility and in restorative justice is also compatible with law-related education, particularly if the programs developed are respectful of individuals, give credence to due process, allow for reasonable dissent, are just and fair, are contextualized to reflect the diversity of classrooms, and work towards the common good (Whitley, 2002). It is important, too, that the whole school community be involved in these initiatives, working together to model, practice and confirm (Noddings, 1992, 1995) the values of responsibility and restoration, rather than expecting only the students to comply. Approaches which engage all stakeholders (Epstein, 1999), and become embedded in school culture have a far greater impact on learning than programs which only target students, or merely focus on changing specific behaviour.

Conclusion:

At the beginning of this paper, I argued that law-related educational was integral to social studies education, and that elementary teachers needed to focus more specifically on addressing law-related issues and themes in the formal and informal curriculum. I stated that the kind of education about law needed in elementary school is different than that required of prospective lawyers. Law-related education enhances our knowledge of the society in which we live and broadens our understanding of participatory citizenship. Further, law is intertwined with everything we do on a daily basis, and lack of knowledge of the law is no excuse for infringements. Law-related education strategies like the case study, mock trial, or mediation engage learners and address important social studies skills and understandings. The history of law-related education in Canada and the United States shows that it is social studies teachers who are the primary advocates for law-related education--strong supporters of the citizenship benefits and engaging learning strategies that accompany the LRE emphasis. I encourage teachers to take those small steps needed to focus more specifically on law-related education in social studies.ⁱⁱⁱ

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ⁱFor additional examples see W. Cassidy and R. Yates (in press). *Once upon a crime: Exploring justice through storybook mock trials and conflict resolution activities*. Toronto: Emond Montgomery Publishers, Inc.

ⁱⁱFor further discussion about conducting mock trials in elementary school, as well as scripts for five fantasy mock trials using children's literature, Cassidy & Yates, *ibid*.

ⁱⁱⁱElementary teachers interested in web resources that support an LRE emphasis, may wish to investigate the following sites:

Access to Justice Network

Classroom resources and Access to Justice

www.acjnet.org/naresources/classroom.aspx

BC Civil Liberties Association

Citizenship teaching module

www.bccla.org/citizenship

Canada's Schoolnet

Lesson plans and on-line mock trials for elementary students

www.acjnet.org/teacher/

Centre for Education, Law and Society

Resources, articles and lesson ideas

www.lawconnection.ca

Law Courts Education Society of BC

Resources and programs for teachers

www.lawcourtsed.ca

The Centre for Education, Law and Society

Articles and lesson plans for classroom use

www.lawconnection.ca

Public Legal Education Association of Saskatchewan
Elementary materials and resources related to the law
www.plea.org

United Nations - Cyber School Bus
Global legal issues from children's perspectives
www.un.org/pubs/cyberschoolbus.

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