

Toward Socratic Method Support System for Law

Seiichiro Sakurai and Hajime Yoshino
Meiji Gakuin University
Graduate Law School

1

Contents

1. Introduction
2. Socratic Method and Legal Education for Creative Legal Minds
3. How can IT support the Socratic Method?
4. Structure and Functions of Socratic Method Support System (SMSS)
5. Implementation of SMSS
6. Example Use of SMSS in Legal Education
7. Conclusion

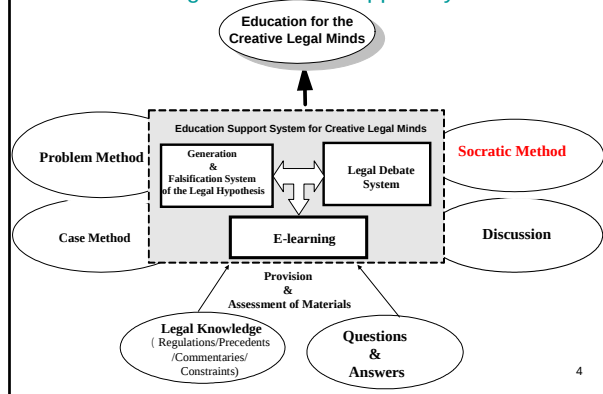
2

1. Introduction

- Japan has just settled a new legal education system of graduate school of law to produce many good lawyers.
- Good lawyers must have creative legal minds.
- In Japanese graduate law schools, it is an important task to educate students who will have creative legal minds.
- We have therefore established a project on "the development of legal education for creative legal minds".
- One of the effective legal education methods is Socratic method. This method could contribute to educate students for creative legal minds.
- We are trying to develop Socratic Method Support System as one of several systems for IT aided legal instruction.
- Objectives of this presentation:
 - To report our study results of an application of IT to support Socratic method for law education, namely Socratic Method Support System for law

3

Methods of Educating Creative Legal Minds and the Legal Education Support System



4

2. Socratic Method and Education for Creative Legal Minds

1. What is the Socratic Method (SM)
2. Goal of SM (Collins & Stevens)
 - A) Teach rules or theories
 - B) Develop/create new rules and new theories
3. How can SM contribute to creative legal minds (CLM)?
 1. SM let students think for themselves:
 - It is a necessary condition for creative legal minds to think for themselves as much as possible.
 2. The kind of questions presented by a professor are critical for developing CLM.
 3. The two goals of A) understanding rules or theories and B) developing new rules or new theories must be realized.
 4. Process to realize these goals are important.

5

Process to develop new rules

1. Law creation is to settle a new law sentence which cannot be deduced from given law sentences.
2. A new law sentence is to be 'just'
3. The justness is to be tested by falsification reasoning
4. It is important for students to exercise falsification reasoning to find a new rule.

6

Falsification Reasoning

- The justness of a rule is to be checked through evaluating the effect of the application of the rule.
- A new rule cannot be proved to be just.
- A new rule can be proved to be unjust through falsification reasoning.
- The logical structure of falsification reasoning is Modus Tollens:

7

Modus Tollens

- $\{(A \rightarrow B) \ \& \ \neg B\} \quad \neg A$
 - If a new rule is accepted (A), then it follows an effect (B) and the effect is evaluated unjust ($\neg B$), consequently the acceptance of the new rule is to be evaluated as unjust ($\neg A$).
- $\{(R \ \& \ r1) \ \& \ E1 \rightarrow C1\} \ \& \ \neg C1 \quad \neg r1$

[R: given legal knowledge, r: rule, E: event, C: effect of its application]

- A rule which is not falsified through falsification reasoning is to be accepted as a new confirmed rule.

8

Falsification reasoning to get a new rule

[R: given legal knowledge, r: rule, E: event, C: effect of its application]

- $\{(R \ \& \ r1) \ \& \ E1.1 \rightarrow C1.1\} \ \& \ C1.1$
-
- $\{(R \ \& \ r1) \ \& \ E1.m \rightarrow C1.m\} \ \& \ \neg C1.m \quad \neg r1$
-
- $\{(R \ \& \ r2) \ \& \ E2.1 \rightarrow C2.1\} \ \& \ C2.1$
-
- $\{(R \ \& \ r2) \ \& \ E2.m \rightarrow C2.m\} \ \& \ \neg C2.m \quad \neg r2$
-
- $\{(R \ \& \ ri) \ \& \ Ei.1 \rightarrow Ci.1\} \ \& \ Ci.1$
-
- $\{(R \ \& \ ri) \ \& \ Ei.m \rightarrow Ci.m\} \ \& \ Ci.m \ \dots \rightarrow \ ri$

9

Socratic Method and Falsification Reasoning

- Education for creative legal minds is employed to encourage students to use falsification reasoning to create new rules in a reiterative fashion.
- Falsification reasoning is an important method.
- Falsification reasoning can be exercised through the Socratic method.
- It is necessary for a professor to present appropriate questions for Socratic dialog. Professors must prepare them sufficiently.
- It is also necessary for a student to exercise falsification reasoning through Socratic dialog by themselves as much as possible.
- How can these be realized?

10

How can these purposes be realized?

- For these purposes, Information Technology (IT) can be an effective tool.
- An IT-aided Socratic Method Support System is therefore needed.

11

3. How can IT aid Socratic Method?

- IT can provide supports for professors in preparation of Socratic dialogs.
- IT can support students in the exercise of Socratic dialog both in class and on their own.
- For these two purposes, we are developing Socratic Method Support System for law.

12

IT can provide supports for professors preparing Socratic dialogs.

- A professor can prepare questions and answers of Socratic methods on a computer.
- Cases of Socratic dialogs can be installed on a computer so that a professor can prepare and improve questions and answers more effectively.

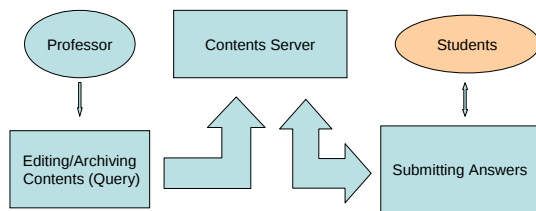
13

IT can support students exercising Socratic dialog by themselves

- A simulation system of Socratic dialog can help students to exercise SM without the time and space limitations of the class.
- IT can help students to identify and understand the Socratic dialog process in question. This may enhance the effectiveness of Socratic dialog.

14

4. Structure and Functions of Socratic Method Support System (SMSS)



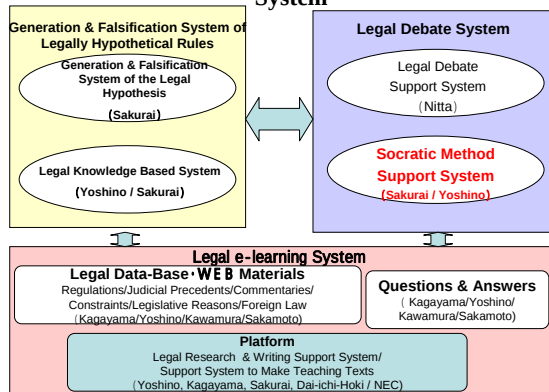
15

Contents of SMSS

- Problems as usual HTML documents
- Q&A
 - Questions by a professor
 - Possible answers to each question by students
 - Explanations of problems and questions

16

Structure of the Legal Education Support System



Functions of Socratic Method Support System

- Simulation of Socratic dialog
 - To operate simulation by a professor and /or students
 - Display of a question
 - Input of an answer
 - Display of candidate answers
 - Selection of an answer from those available, which corresponds to his answer
 - To prepare Socratic dialog by a professor
 - Editor of data
 - Record of new data made through simulation by students

18

5. Implementation of SMSS

- Contents Management Server
 - Plone/CMF
- New content types
 - Query for a professor's question
 - Answer for a student's answer

19

6. Example Use of SMSS in Legal Education

- Data of problems and Q&A
 - Case of portion of bastard (nullius filius)
 - Case of repetition of a stolen tractor
 - 9th Vis Willem Moot Problem
- Experimental use in a class of a "integrated seminar for civil law" in MGU Faculty of Law (2003)
- Continual use in classes of "Legal Information Processing" in MGU Graduate Law School (2004)
- Partial use in a class of "Legal Method" in MGU Graduate Law School (2004)

20

Problem: case of a claim to restitute a stolen tractor

- 1) A purchased a new farm tractor.
- 2) The tractor was stolen immediately after the purchase.
- 3) B purchased this tractor for 3 million yen from a supplier of used agricultural machines.
- 4) B did not know that this machine was stolen goods.
- 5) After almost two years had passed, A came to know that B owned the tractor which A purchased.
- 6) B used the tractor continuously for these two years, and the price of monthly use profits was about 220,000 yen. Reduction of the price of the market value of the tractor was carried out according to use, and the market value of the tractor depreciated to about 1,500,000 yen which is half the value at the time of purchase.
- 7) A claimed B to return the tractor to A.

21

Article 194, Japanese Civil Code

- **If the possessor of a thing which has been stolen, or lost, has bought it in good faith at auction, or in an open market, or from a tradesman who sells things of the same kind, the person from whom it has been stolen, or the person who has lost it, cannot recover it from the possessor without repaying him the price he paid for it.**

22

A case concerning petition for return of a stolen tractor

- Supreme Court, Judgment, June 27, 2000; 54 Minshu (Supreme Court Reports (civil cases)) 5, p.1737.
- Syllabus:
 - **If an occupier of stolen property may refuse the return of the stolen property etc., pursuant to Article 194 of the Civil Code, he is entitled to use and take profit from the stolen property etc., until the compensation of the consideration therefore is tendered.**

23

Result of the application of Article 194 to the problem according to the supreme court decision

- A, the person from whom the tractor has been stolen, cannot recover it from the possessor B without repaying B the price B paid for it. A cannot require B to return the use profit while B occupied the stolen tractor.
- The conclusion would be inappropriate, because:
 1. A must pay B 3 million yen in spite that the market price went down to the half of it, 1.5 million yen.
 2. B got the profit in use of the machine 220,000 yen, per month, all together more than 4 million yen for two years.
 3. The treatment of A and B under Article 194 of Japanese Civil Code became unequal, therefore unfair.
- Therefore, a proposal for amendment draft of a new rule is expected to students.

24

Demonstration

- [SMSS](#)

25

6. Conclusion

- According to teaching cases, we have seen that SMSS plays a useful role both for professors and students in teaching and learning law.
 - Socratic dialogs can be prepared by professors easily.
 - Students are enjoying to play a computer system toward creative legal minds.

26

Implications for Future Research

- We have to clarify further processes of Socratic dialog for educating for creative legal minds.
- We would like to continue to develop the Socratic Method Support System and inquire further into its theoretical aspects.

27