Gender Equality in the Republic of Korea

J FBA Center for Gender Equality Promotion: Reports from a Study Tour in the Republic of Korea and a Meeting with the Korean Bar Association

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I  International Activities of the J FBA Center for Gender Equality Promotion
The Basic Act for Gender-Equal Society (Act No. 78 of 1999) enacted in 1999 values “realization of a gender-equal society in which every citizen is able to fully exercise their indivuality and abilities regardless of gender” as “a top-priority task in determining the framework of Japan in the 21st-century.” The Japan Federation of Bar Associations (JFBA) subsequently established its “Basic Framework for Gender Equality in the JFBA (JFBA Basic Framework)” and based on this launched the “JFBA Center for Gender Equality Promotion,” headed by the JFBA President, and began conducting comprehensive and integrated approaches for achieving gender equality.

International activity had and continues to have great importance for gender equality movements. Actions on the advancement of women’s positions and rights in Japan have been strongly influenced by the approaches of international organizations such as the United Nations (UN) and the global tide of women’s rights movements. For example, the JFBA established its “Committee on Women’s Rights” (renamed as the “Committee on Equality of Men and Women in 1993), prompted by “International Women’s Year” (1975) and the following “UN Decade for Women.” Accordingly the “JFBA Basic Framework” also clearly prescribes that the JFBA exchange information with international organizations and take other necessary steps in order to realize and respect the internationally accepted philosophy of gender equality.

It is also important to learn from approaches taken overseas. This is especially the case considering the fact that organizations such as the JFBA and other bar
associations, have just begun activities to achieve gender equality so that there seems to be a number of things which can be learned from the approaches and experiences of foreign bar associations and law societies.

Accordingly, the JFBA Center for Gender Equality Promotion has placed importance on international approaches as one of its main activities and thus begun research on approaches utilized by the Republic of Korea (Korea), where gender equality has dramatically advanced, and exchanging information with Korean bar associations. The Korean Bar Association (KBA), to which all Korean attorneys belong, and the JFBA have interchanged for more than 20 years and concluded a Memorandum of Understanding (MOU) so that both organizations are coming from the basis of a very close relationship. Further, both nations are experiencing major reforms of the judiciary so that the KBA and the JFBA have a common theme in how to place their activities for achieving gender equality in such judicial reforms.

To begin with, then KBA President Jin-Kang Lee and other KBA members had a luncheon meeting and discussed gender equality issues with members of the JFBA Center for Gender Equality Promotion on the occasion of the KBA members visiting Japan for another international meeting in November 2007. Next, as an exchange, the JFBA went on a study tour to Korea in April 2008. Then in December 2008, Mr. Sang-Seok Lee, the then KBA Human Rights Director, and other KBA members visited Japan and exchanged opinions on the practices and activities of female attorneys. We are pleased to report that the information earned in these exchanges was highly instructive and inspiring.

II About the Study Tour

On 3 and 4 of April 2008, 9 members of the JFBA Center for Gender Equality Promotion (the tour leader being Makoto Saito) exchanged opinions with the KBA and visited the Ministry of Gender Equality, the E WHA Womans University among other places. As reported in more detail below, we achieved many positive outcomes from this study tour and there were many issues to learn. To briefly summarize, the main outcome was the “start of an interchange,” and the issues we learned from them were “effective incorporation of gender equality into systems,” “introduction of gender-based viewpoints from the time of professional legal training and education,” and “vitality originating from cooperation with NGOs.”

1. Purpose of the Study Tour

In Korea, the policies and legislation surrounding gender equality are further
advanced than those in Japan.

For example, in Korea, the percentage of women who are members of the National Assembly has increased rapidly from 5.86% to 13.04%. This is because a quota system, which stipulates the percentage of female candidates in proportional representation elections as being 50%, was provided in the Political Parties Act (now the Public Election Law). Also in Korea, anti domestic-violence (DV) laws were enacted earlier than those in Japan, and were constructed from two acts: the “Special Act on Domestic Violence,” which provides that DV is to be punished as a crime, and the “Prevention of Domestic Violence and Victim Protection Act,” which provides that victims of DV are to be protected. The combination of these two pieces of legislation makes the laws effective and correspondent to the actual conditions surrounding DV. Furthermore, Korea has enacted the “Act on the Punishment of Sexual Crimes and Protection of Victims Thereof” and the “Employment Equality Act,” which introduced the concept of indirect discrimination before it was recognized in Japanese law.

In Korea, they not only have the Ministry of Gender Equality and the Basic Women's Development Act, which can be described as a basic law of gender equality promotion, but also legal policies which generally promote the principle of gender equality in every direction seem to have been realized.

Why has Korea been able to promote gender equality policy progressively and powerfully, and what kind of gender equality is the KBA promoting?

The purposes of this study tour were to investigate these issues, or at least some parts of them, and to deepen the interchange between the two organizations so that the KBA and the JFBA can cooperate and promote gender equality.

2. Details of the Study Tour
(1) Schedule
On the first day, we paid a courtesy call on KBA President Lee, talked with him and exchanged opinions with attorneys belonging to the KBA. Then we visited the Seoul District Court and exchanged opinions with the Korea Women's Bar Association (KWBA). On the second day, we visited the Ministry of Gender Equality and the EWHA Womans University (Department of Law.)

(2) Summary
We briefly report the results of the study tour below:
i. Opinion Exchanges with the KBA and the KWBA
   (i) Rapid Increase in Female Attorneys, Positive Appointments of Female Attorneys,
and Gender-Bias-Free Organizations

The KBA had its first female attorney in 1954. Thereafter, the number of female attorneys, which in 2000 was slightly over 100 (135 women out of 3,887 attorneys), has been growing rapidly and reached 984 (out of 8,743) in January 2008. They also say that 30% of the successful applicants in the Korean bar exam are women. The total number of attorneys is increasing rapidly so that the Korean bar is now largely composed of young attorneys. Regarding women, about 70% of the 984 are aged in their thirties.

Therefore, according to KBA President Lee, the KBA is positively appointing young attorneys as its officers so that the thoughts of young attorneys influence management of the bar association. An example of this policy can be seen in the fact that the Assistant Secretary General who received us was a sophomore female attorney. Moreover, the KBA has established the Special Committee of Young Lawyers, which consists of younger attorneys, and its sub-committee called the Female Lawyers Section, which supports young female attorneys. Also, the proportion of the KBA's female directors has been rising by 6% every year since 2005.

In this way, the KBA is improving its organization and positively appointing women without gender bias, corresponding to the rapid increase in female attorneys.

(ii) Active Legal Aid through Cooperation with NGOs

The KBA regards the problem of women’s human rights not as a “women’s” matter but as a matter of “human rights” and established a sub-committee concerning the human rights of women in its Human Rights Committee in 2003. Subsequently, the KBA had a meeting with the Korea Women Association United, exchanged opinions on projects related to human rights relief for women and submitted an opinion regarding a bill (enacted in 2004) on the punishment for procuring prostitution and for the prevention of prostitution to the related departments of the government. Moreover, aiming to help victims of female trafficking, the KBA cooperated with NGOs all over the country, and successfully claimed for the restitution of unjust enrichment.

Furthermore, Korea has not only the Korea Women’s Association United but also other NGOs such as the Korea Legal Aid Center for Family Relations, the Korea Women’s HotLine, and the Korea Sexual Violence Relief Center, and female attorneys work as counselors and advisers for these groups.

(iii) Activities of Female Attorneys

Female attorneys of the KBA unexceptionally join the KWBA, a voluntary
group. We had the impression that the existence of the KWBA has a direct influence on the gender equality promotion of the KBA, as some directors of the KBA are appointed from the members of the KWBA. We have heard that female attorneys are not only widening their field of actions by cooperating with NGOs, but also that many of them are now appointed as members of state institutions and committees. Further, more and more female attorneys are being elected as members of the National Diet.

ii. Ministry of Gender Equality

Until shortly prior to our study tour, this Ministry was named the Ministry of Gender Equality and Family and dealt with matters of family in addition to matters surrounding gender-equality. Then it was reorganized as the Ministry of Gender Equality. The two main policies of gender equality in Korea are: (1) protection of women’s rights (eradication of discrimination), and (2) development of women's abilities (social participation). We have also heard about the “M" curve problem (many women resign their jobs at childbirth so that the graph showing labor population by age declines around that age, forming the shape of the letter 'M'). To remedy this problem they are systematically supporting women to (i) continue their jobs after delivery and (ii) return to work. While Japan is promoting family-friendly policies, Korea is also encouraging family-friendly corporations by attempting to create a more female-friendly corporate culture.

Interestingly, they are promoting “gender analysis”, a newly introduced system which analyzes the influences of national policies on men and women in advance of their enactment. This system analyzes the impacts of a particular policy on both men and women, and national and local governments report their results to the Ministry of Gender Equality. Ministers, vice-ministers and first-class civil servants are appointed as persons responsible for women’s policies, and they are charged with summarizing and reporting the results of the analysis. We have heard that they had some initial rejections, but they convinced people by claiming that this system will increase people’s satisfaction levels. As to the analysis methodology, they have not only instruction manuals but also an educational system of analysis. These are the realizations of gender-mainstreaming (taking the viewpoint of gender equality into all directions of policies) policy in Korea.

iii. EWHA Womans University, Department of Law

The EWHA has a 122 year history and plays a central role in women's studies in Asia, claiming that the emancipation of women is the emancipation of all humans. To
date 4,500 students have graduated and 300 have become legal professionals. In 2007, the number of its students passing the bar exam was ranked as fifth in the country. Now, from 2009, the law school system is starting in Korea, and the EWHA is running the only women-only law school in the country with a capacity of 100 students (Currently, the capacity of its faculty of law is 200 students. The faculty of law is to be closed due to the start of the law school). This law school is set to focus on issues of gender and bioethics, and the school has stated that gender jurisprudence at the EWHA is going to develop further in the future. It should be noted that 25 law schools are set to open in Korea. The bar exam pass rate has been set at 80% and the total capacity of all the law schools is stipulated as being 2,000, which is distributed among the 25 schools.

As to courses on gender, until 2001 the EWHA had only one such course, female jurisprudence, but since 2002 it has been providing two courses, female jurisprudence and a female jurisprudence seminar. They eagerly informed us of their plans to develop a curriculum which includes more classes on gender jurisprudence and increases teachers on the subject to 7 or 8. They stated that as there is no standard textbook on gender jurisprudence they will raise questions regarding current jurisprudence from the viewpoints of gender.

3. Result of the Study Tour and Issues for the Future
(1) Effective Incorporation of Gender Equality into Systems

As mentioned at the beginning of this section, Korea is successfully incorporating systems which promote gender equality into its politics and laws. This provides us with many points to learn from.

For example, in addition to the quota program in their election system, the percentage of female teachers at universities is also determined. Even though it does not appear that a quota system can be adopted in the Japanese election system as it would result in constitutional problems and discussions, analyzing the details and effects of a bold legal system like this would certainly offer opportunities for us to think of other possible systems suitable for Japan. Furthermore, Korea is certainly attempting to realize gender-mainstreaming via its program of “gender analysis” and its 360 degree legal policies which focus on the importance of gender viewpoints. Japan needs to learn from such efforts and viewpoints.

(2) Introduction of the Viewpoint of Gender from the Time of Professional Legal Training and Education

Even though one of the reasons for introducing a law school at EWHA may be
the fact that it is a traditional university from which many legal professionals have graduated, the fact that a law school was established in a women’s university and that it specializes in gender and bioethics should lead to the country developing a sufficient awareness of the importance of the gender viewpoint in legal education.

It is important that we follow the EWHA’s example of incorporating gender viewpoints into the curriculum of legal education and utilize the information effectively for the legal education in our country.

(3) Vitality Originates from Cooperation with NGOs

According to the KBA, gender equality policy and changes to the legal system have been realized one after another in Korea largely due to the diligent actions of women’s groups in the country. It was impressive that female attorneys have taken an active part in developing this strong power and that they are filling roles as prime movers on these issues from consultations to presenting opinions to their roles in national politics. Through this, we once again recognized the importance of cooperation with civil activities.

III Meeting with the Korean Bar Association - December, 2008

On 18 December 2008, Mr. Sang-Seok Lee, the then KBA Human Rights Director and 4 other members of the KBA Human Rights Committee visited Japan and exchanged opinions with us. From the JFBA, members of the JFBA Center for Gender Equality Promotion, the Tokyo Bar Association’s Center for Gender Equality Promotion and the Daini Tokyo Bar Association’s Project Team for Gender Equality Promotion participated in the meeting.

This opinion exchange meeting was held suddenly due to a proposal from the KBA. The interchange on “gender equality at bar associations” started with a proposal from the JFBA, and its importance was also recognized by the KBA.

The KBA reported on the subjects of “Practices and Situations of Female Attorneys,” “Situations of Female Attorneys’ Advancing into Other Fields,” “Route to and Know-How of Clients by Female Attorneys in Korea,” and “Past, Present and Future of Female Attorneys.” As mentioned before, the number of female attorneys is increasing rapidly in Korea, and in that situation “they are facing the reality that they must defend themselves and survive intense competition,” even though they could formerly “enjoy the power of the privileged classes.” We interestingly heard that various plans are being carried out as a result of this. In addition, female attorneys are advancing not only into naturally expected areas such as becoming professors of law
schools, but also into becoming national civil servants and members of the National Assembly, and we understood that this situation is supporting female-related legislation and policies. On the other hand, work-life balance issues such as child-rearing are also a big problem in Korea. In many cases women leave their children to the care of their mothers in order to continue working, so that it is said, “grand mothers die at their daughters’ kitchen,” which, unfortunately, is a serious joke. However, it is reported that bar associations have started taking measures to remedy this situation. For example, in December 2008, the Seoul Bar Association (SBA) opened a nursery school roughly 330 square meters in size with a capacity of 43 children (7 nursery staff members) in the Education and Culture Hall, owned by the SBA.

The JFBA introduced a feature article “Gender Equality and Attorneys,” in the White Book of the Attorney published in November 2008, and reported on the activities of female attorneys in Japan as well as on the actions of the Tokyo Bar Association and the Daini Tokyo Bar Association.

In this meeting, we were able to discuss the “Practices and Activities of Female Attorneys” in more depth, which made the meeting very worthwhile.

IV Issues for the Future

As this was the first time for the bar associations in Japan and Korea to begin an interchange for the purposes of achieving gender equality, we believe we have taken a great, first step ahead.

Promoting gender equality requires breaking down some elements of common sense and efforts so that it is effective for us to both be observed from the outside and to be sensitive to outside information. The KBA says that it’s attorneys and the bar association have become more interested in gender equality through the several interchanges with the JFBA, and that the persons in charge had repeated meetings and prepared positively and proactively for our meeting.

Now the JFBA is required to take new actions on gender equality promotion. For example, organizational structures are changing rapidly because the number of successful bar exam applicants has increased and correspondingly the number of young female judicial apprentices and attorneys has also increased so that we are forced to find ways to cope with the issues caused by this. We also face problems regarding employment and sexual harassment. Moreover, how the start of the lay judge system will influence the problems of gender bias in the judiciary (as previously indicated) is not clear. In order to solve these problems without exacerbating them, we attorneys must surely need to keep gender viewpoints in mind. Therefore, it is imperative that
gender viewpoints are introduced in the curriculums of legal education at law schools.

In order to tackle the aforementioned problems and further advance the JFBA’s activities for gender equality, we believe that further interchange with bar associations in Korea, which possesses a wonderful legal system, and bringing together the wisdom of both bar associations will prove to be very worthwhile. We hope for long-lasting and continued fruitful interchanges in the future.