The Basic Law for a Gender-Equal Society and Us

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“Power is a cunning. It devours everything it can use into its territory.” (Yuko Suzuki 1997, 212).

Have We Achieved Our Goal?

The Basic Law for a Gender-Equal Society was established in June 1999. It is said that this law was the product of women’s compromise in that the women tried to attain real achievement rather than empty reputation. This law is a “Basic law,” which is defined by the Gender Equality Bureau of the Cabinet Office as a law that clarifies the basic guideline of the systems and policies of important areas in governance. As a legal form, it is a general law that does not overrule other laws. However, in practicality, as a law that shapes policy measures in the relevant area, it is considered to be superior to other laws in the area (Cabinet Office 2001, 10). Accordingly, the Basic Law for a Gender-Equal Society (Basic Law) will have great impact on policies regarding women (and men as well). We can find policies for the Law for the Prevention of Spousal Violence and Protection of Victims (DV Prevention Law) and sexual harassment as some of the outcomes of the Basic Law. In light of these facts, can we really say that we have achieved our goals?

Beginnings of the Basic Law

The Basic Law was promulgated during the 145th session of the Diet in 1999. It is important to review this particular session of the Diet. We cannot forget a series of laws that were discussed during that session for they have greatly influenced Japan and its future. They are the Law on Measures to Deal with Situations in Areas Surrounding Japan1, the Interception of Telecommunications Act (the Wiretapping Law), the Law concerning National Flag and Anthem2, the partial revision of the Diet Law, and the Basic Resident Register Law. The first three laws increased the concern that Japan would again be a country that could wage war. In the discussions on the Law on Measures to Deal with Situations in Areas Surrounding Japan, there were strange explanations of the definition of “surrounding”- that “it is not a geographic concept.” In other words, as long as the government of Japan recognizes a region to be “surrounding” Japan, even if it is on the other side of the globe, it will be designated as “surrounding.” In December of that same year, the Ship Inspection Operations Law was implemented, and it was said to have completed the Guideline for U.S.-Japan Defense Cooperation (the New U.S.-Japan Guideline). In the discussions on the Law concerning National Flag and Anthem, a politician, who is responsible for the policies of the biggest opposition party, made truly inappropriate comments, such as “the design of the Japanese flag is very good” in spite of the negative interpretation of the flag as a symbol of the aggressive invasion during WWII. In March of the following year, during the season of graduations, the city of Kunitachi became a target of the right-wing media. All junior and
high schools in the city of Kunitachi decided not to use the Rising-Sun Flag and not to sing Kimigayo, the Japanese national anthem, at their graduation ceremony. The right-wing media attacked this incident. During the debates on the Interception of Telecommunications Act, the media initially called it the “Wiretapping Law.” However, under government pressures, these words disappeared from major media sources.

The partial revision of the Diet Law allowed the “Constitutional Review Council” to be present in both the House of Representatives and the House of Councilors. The Constitutional Review Council was founded under, at first glance, a “sound argument” that encourages “discussing the Constitution” rather than opposing the ideas of “amending the Constitution” and/or “protecting the Constitution.” It was meant to allow, for example, “new human rights” that are not stipulated in the present Constitution, to be incorporated into the document. However, the real purpose of the Council’s establishment is to enact a “new constitution” that will amend Article 9, and strengthen the Emperor system and nationalism.

In the summer of 2002, the Basic Resident Register Law allowed the introduction of the Resident Registry Network. This strengthens the government’s surveillance and control over its citizens. Our personal and private information will be released onto the Internet, creating the possibility that unexpected violations of privacy may occur through leakage of the information. Therefore, there was a strong opposition to the introduction of the Resident Registry Network. For example, some expressed the concern that, since the Resident Registry Network may require a variety of personal data, one may be able to search on the computer for individuals with certain physical characteristics such as by height and weight, making it useful to the army for recruitment. This is indeed a far-sighted concern.

Hence, we must see the 145th session of the Diet as a turning point towards the strengthening of nationalism and the rebuilding of arms. Therefore, some call this session the “post-war final settlement-of-accounts Diet” or 1999 “the year when Japan veered right.” They are absolutely correct. This 145th session passed bills annulling three major principles of the Constitution of Japan, namely “sovereignty of the people, fundamental human rights, and pacifism (renunciation of war)” (The Constitution of Japan, 1946). It was then that the Basic Law was born.

What the Basic Law Makes Possible

According to Ms. Mizuho Fukushima, a lawyer and feminist politician, bills related to women’s issues can be divided into three categories, the first two types of bills being relatively easy to pass: (a) issues involving a victim, (b) issues so abstract that no one understands the meaning, and (c) issues in which women are being audacious. According to her, the Basic Law corresponds to category (b). (Category (a) usually passes because of pity. The DV Prevention Law is in (a), and women wanting to have separate surnames for married couples is in (c)). However, was the Basic Law really established because the majority of the Diet saw it as “so abstract that no one understood the meaning”? I doubt it. They must have had their own understanding of the bill. If there was something they did not understand, it must have been the women’s compromise, “choose real achievement rather than empty reputation.”

Then what was their understanding/thought? They might want to further strengthen nationalism and to make
Japan a country that can wage war. They might be concerned about the declining birthrate, aging of Japanese society and the defeat of economic recession. In order to achieve their goals and solve these political problems, they need to secure a pure domestic labor force. They cannot easily forego this pure domestic labor force. This law calls out to the “people of the nation” under Article 10 of the Basic Law. If that is the case, there is no choice but to include women. They see us as the “human labor force,” which is necessary for achieving particular political agendas. For that reason, we can think of “human rights” in the Basic Law as already replaced by “human labor.” If we apply this understanding to Article 3 of the Basic Law, “The securing of opportunities for men and women to exercise their abilities as individuals,” it can be interpreted as using and developing all human labor available. “Respect for the dignity of men and women as individuals” can be read as appropriate measures that must be taken to, for example, prevent sexual harassment and the loss of working abilities from the victim, because such incidents will obstruct the use of human labor. Such interpretations are plausible (Kamiya 1999, 7). According to this understanding, they can send us to the labor market in times of peace and for preparations of war in times of battle, making us participate “equally” and as “human labor” regardless of gender. This is what the Basic Law makes possible. In other words, the Basic Law can be seen as the modern version of the “National Mobilization Law.”

We Cannot Give Up “Our Human Rights”

Unfortunately, I cannot answer “yes” to the question I made at the beginning of this article, “can we really say that we have ‘achieved’ our goals?”

Even after the enforcement of the Basic Law, some courts have ruled on cases of violence against women by relying on the “rape myth.” There was also a victim blaming comment by a cabinet minister to the victim in the rape case by an American soldier in Okinawa in June 2002, as well as the “old hag remark” made by Ishihara, the Governor of Tokyo. The “old hag remark” demonstrates his view of women as “child bearing machines/troops.” The issue was not longer about “human labor.”

In addition to the legal framework formed to strengthen nationalism and militarism, three National Emergency Bills were passed and the Chief Secretary made a remark on the acceptance of nuclear armament. The invitation to “participate” that we received merely invites us to a “human rights in terms of human labor” situations that have been carefully designed and developed by the visitors. And yet do we go on with the invitation carefully slipped into our bags? You may think so, with the reasoning that “it is important to discuss the issue.” For those
who agree with the above reasoning, we offer the following quote:

“Thinking of the way in the past in which every time a woman said something harsh, or raised a question, the men full of vanity would say, the women are saying something again, the women should quietly work in the back. It makes me happy to see that today it is our nation’s common place to have housewives explaining one point at a time in the meeting room of this Association the path this country should follow, and to have men quietly listen to our words.” - The words of Fumiko Hayashi, 1941 (Suzuki 1997, 31). 

What was the goal of this “participation”? We need to discern the hosts of this invitation and its system, to think thoroughly and carefully the meaning of participating.

The Basic Law (1) has “men and women being cooperative,” not “men and women as equals” as its goal, (2) strives for the “securing of opportunities” rather than “equality in reality,” (3) defines “the obligation to ensure the equal right of men and women,” but does not have measures to eliminate discrimination against women as stated in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and it considers itself to be a part of ”international harmony” effort. (4) makes its goal the “balance of home and other activities” based on traditional gender roles and, (5) points out that human rights may be sacrificed (or does not deny this sacrifice) depending on socio-economic conditions. The Basic Law creates a “Japanese version of a gender-equal society” that differs completely from the aims of the CEDAW, paving the way to integrate women into a nationalist agenda. If the session of the Diet that established the Basic Law was a “new Guideline for U.S.-Japan Defense Cooperation” session, how close are we to the “cooperative contribution of men and women to war”...

Ms. Michiko Nakajima, a lawyer, has been expressing these concerns since the establishment of the Basic Law. I am in complete agreement and I share her fears. Ms. Yuko Suzuki, a scholar/historian of women’s history, says the following about women activists before World War II:

“…because women had been ostracized from ‘power,’ their approach to ‘power’ was more sudden… manipulation by the system to make ‘power’ seem like ‘liberation’ was rampant. The methods by the dominant powers were even cleverer. Therefore, intense confrontations with the system were justified.” (Suzuki 1997, 222).

Confrontation. It begins by questioning anew the meaning of “equality” and “cooperation,” “participation” and “contribution.” This is a question of how we want to live, what kind of society we want to live in; this is the heart of “human rights.” We are not “human labor.” We cannot give up “our human rights.”

References:
All references are written in Japanese. If you would like to obtain the list, please contact Asia-Japan Women’s Resource Center (ajwrc@jca.apc.org).

Footnotes (provided by an editorial staff):
1 The Law on Measures to Deal with Situations in Areas Surrounding Japan reinforces the militarized relationship between the US and Japan by allowing the Japanese Self-Defense Forces to provide logistical support, including transportation and supply to the US Forces for the US interventionist war.
2 The Law concerning National Flag and Anthem: It is said that the Japan’s Rising-Sun Flag is a symbol of the aggressive invasion to Asia during WWII and a customary song “Kimigayo (The Emperor’s Reign)” was a song about the Emperor, when he should have been punished as a war criminal. Therefore, lots of people in Japan and throughout Asia opposed the bill to officially announce the Rising-Sun Flag and Kimigayo as the national flag and anthem.

3 Article 9: The Constitution of Japan is famous as pacifist Constitution because of Article 9. “Article 9: Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.”

4 National Mobilization Law (1938 - 1945) provides the government the authority to secure and assign human and physical resources for wartime use.


6 It has been said that Ms. Suzuki’s awareness was a historical hindsight.

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