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# Interview with The Honourable Justice Han-Sung Cha, Minister of National Court Administration of the Supreme Court of South Korea

On Friday, April 19th, 2013, during the Annual Meeting in Seoul, Caroline Berube was given a special opportunity to interview the Honourable Justice Cha (also the Minister of National Court Administration) for the IPBA Journal. The following is a summary of their discussion.



The Honorable Justice CHA Han-sung was born in 1954 in Goryeong, North Gyeongsang province. He graduated from the Seoul National University College of Law. After passing the 17th National Judicial Examination in 1975, he began his judgeship at the Seoul Civil District Court. Justice CHA has served as a Professor of Judicial Research and Training Institute, as a Presiding judge at the Seoul High Court, as the Senior Presiding Judge of the Seoul Central District Court, Chamber of Bankruptcy, as the Chief Judge of the Cheongju District Court, and as the Vice Minister of the National Court Administration (NCA). He is currently serving as the 20th Minister of NCA (a Supreme Court Justice).

## 1. How has a broad judiciary experience benefited you in your role as a Supreme Court Justice?

Since I became a judge in 1980, I have been involved in various courts including civil, criminal, administrative, and bankruptcy courts as a judge. I believe that such a broad experience in many areas has expanded my scope of logical thinking and understanding and also strengthened a universal sense of justice, which are all necessary in making judgments on cases.

In addition, I have experienced in judicial policy and judicial administration as I held office in National

Court Administration as a chief of the Judicial Policy Research Office and Vice Minister of National Court Administration. I believe that the experience in judicial administration besides making judgements helped me greatly understand the parties and render considerate judgements.

## 2. What impact do you think the implementation of the Citizen Participation in Criminal Trials System has had on the Korean Judiciary?

The Citizen Participation in Criminal Trials System has been in force since 2008. This system helped establish the trial-priority principle more smoothly in the Korea court system. The judiciary has continuously pursued the trial-priority principle, which centers on a vivid argument made in court and a trial through evidence, than a documented evidence, including investigation records and other case-related materials. Under the system of Citizen Participation in Criminal Trials, it becomes important for prosecutors and lawyers to persuade the jury who

participates in a trial. Following this, the trial-priority principle has been realized in fact since all of the arguments and proving evidence to persuade the jury would be made in court.

In addition, the people's trust in the judicial system has increased by the people's participation in trials. By allowing people to directly watch, understand, and participate in the process of a trial, the process of a trial becomes more transparent.

**3. What were the challenges and advantages of leading reform in the Credit Rehabilitation System?**

Due to the aftermath of the Asian financial crisis in 1997 and the credit card debt crisis in 2003, the number of credit defaulters increased dramatically, causing a serious social problem. As serving as a Senior Presiding Judge in the Chambers of Bankruptcy of the Seoul Central District Court from the time of 2003 to 2005, I led and completed the reform of the credit rehabilitation system.

The traditional role of the court was to identify the rights of creditors and to assist in the realisation of such rights. On the other hand, the purpose of the credit rehabilitation system is rehabilitation of debtors. Thus, there arose conflict between the court's traditional role and the credit rehabilitation system. My main objective was to convince other judges to utilise the new system.

In the beginning, there was a general lack of understanding within legal circles including judges, with regard to 'fresh start,' the objective of the rehabilitation system, as well as a lack of sympathy with debtors. In addition, the media also expressed concern that the relief of debtors may cause moral hazards. However, an agreement was reached after extensive discussion and debates and social and legal circles finally accepted the changes on debtor relief.

**4. The Korean Judiciary established a Patent Court as a specialised court. What are the achievements of the Korean Judiciary since the establishment of the**

**Patent Court, and what are the plans for the Court in the future?**

The establishment of the Patent Court as a specialised court allows fast, professional and fair judicial services in the patents field. Of all patent cases, 75% are processed within six months, and 98% are processed within a year. Among all the Patent Court's cases, one third are cross-border cases.

In April 2010, the Patent Court adopted the Electronic Case Filing System (ECFS) for the first time and, as of now, more than 80% of all patent-related cases are processed promptly through the ECFS. This coming October, the Korean Patent Court, together with the United States Court of Appeals for the Federal Circuit, plans to hold a Korea-United States Intellectual Property Judicial Conference. The Patent Court will continuously keep up the efficiency and professionalism of trials.

**5. What were the motivations or reasons behind development of the Judicial IT system, and the achievements so far?**

Digitalising trial and litigation-related information has increased efficiency of work and dramatically renewed the transparency and fairness of litigation in South Korea. The ECFS allows access to litigation records instantly at any time and in any place, which has significantly increased the clarity of litigation procedures and greatly assisted in saving time and cost. It has also elicited a positive reaction and trust from the public about the court system. As stated earlier, 80%, very high rate of intellectual property (IP) cases are filed electronically. With regard to civil cases, more than 40% of cases are submitted electronically. We have plans to convert virtually most all of the services of the judicial system except criminal cases to paperless electronic filing within the next five years.

**6. The World Bank Doing Business 2013 Report, released in October 2012, ranked Korea 2nd in the world for the topic of 'enforcing contracts' (effective commercial dispute resolution). Why do you think the Korean**

**Judicial System is receiving such high marks in the international community?**

I am very happy with our result and believe the high marks are attributable to the following facts. First, the Judiciary strengthens its professionalism through operating various kinds of specialized panels. Second, the adoption of the ECFS has improved the clarity and efficiency of court proceedings, and finally for a reasonably inexpensive cost of litigation, we provide fast and fair court procedures and convenient execution procedures.

The Korean Judiciary will continuously resolve any inconveniences for the public, and plans to enhance the professionalism of judges by providing regular training opportunities for judges at Judicial Research & Training Institute(JRTI).

**7. What is your opinion regarding the increased emphasis on alternative dispute resolution forums, particularly when addressing cross-border disputes?**

I believe ADR is important for the peaceful and final settlement of disputes. The Korean Judiciary actively encourages courts to utilize the court-annexed ADR, and has established four more Court Arbitration centers, expanding the centers from five to nine different districts. Besides

the Court Arbitration centers, there are the Korean Commercial Arbitration Board, the Korean Institution of Arbitration and other various private ADR organisations. Cross-border matters go to court more often than arbitration in Korea. We've observed that this is different in other jurisdictions like Hong Kong and Singapore.

This May, the Seoul International Dispute Resolution Center (Seoul IDRC) is opening. We hope that the Seoul IDRC will play a leading role in resolving a lot of international disputes in Asian-Pacific region. We, the judiciary, will actively support for the successful operation of the Seoul IDRC.

**8. What role do you see leading judicial bodies (ie the Supreme Court and National Court Administration) playing in the development of judiciary systems in other jurisdictions? Do you believe these cooperative relationships will continue to expand throughout the region?**

I think the cooperation of judicial bodies based on mutual learning

is more effective than teaching. By sharing its experience and knowledge, the Korean Judiciary has positively contributed to the court systems of developing countries. Likewise, through such exchanges, we have also gained new insights into the development of our own judicial system. We have signed a memorandum of understanding with Vietnam to establish training programmes and institutes. We currently have a judge with extensive experience in civil courts undertaking a one-year programme there. We are also partnering with Peru, which sent 15 judges to Korea at the end of April for a programme. We are discussing similar initiatives with Mongolia and potentially Cambodia, Nigeria and Egypt.

**Notes:**

- 1 Citizen Participation in Criminal Trials (Korean Jury System)  
The Korean Jury system is similar to the US Jury System in general, but some points are different.
- 1 This is held only when requested by the defendant.
- 2 The verdict by the jury is not legally binding, but only has advisory effect.
- 3 The jury makes a suggestion regarding not only guilty or innocence, but also sentencing.



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Caroline Berube is managing partner of HJM Asia Law & Co LLC and focuses on Chinese corporate law and commercial practice. She has advised clients in various industries such as manufacturing, energy (oil, gas and mining), technology and services. Caroline is also a regular speaker at many international conferences and is an arbitrator approved by the Chinese European Arbitration Centre.