



**ASSOCIATION OF ASIAN CONSTITUTIONAL COURTS  
AND EQUIVALENT INSTITUTIONS**  
Bali, Indonesia



Association of Asian Constitutional Courts  
and Equivalent Institutions

**MINUTES OF MEETING**

**MEETING OF THE SECRETARY GENERALS**

**9 August 2016**

**Opening**

1. The Meeting of the Secretary General (“the Meeting”) of the Association of Asian Constitutional Court and Equivalent Institutions (“the Association”) was successfully held at the Bali Nusa Dua Convention Center, Indonesia, on 9 August 2016. The Meeting was chaired by the Secretary General of the Constitutional Court of the Republic of Indonesia, Prof. Dr. M. Guntur Hamzah.
2. In his opening remarks, the Chair stated his belief that the members could agree on the importance of strengthening this Association so that it could grow and develop, both by deepening the relations among its members and also by expanding relations with other partners and institutions. The Chair also gave opportunity for each representative to introduce their delegation and share their brief opening remarks.
3. The members thanked the Constitutional Court of the Republic of Indonesia for its hospitality and excellent organization of the Meeting. Some of them expressed their hope that the series of Meetings of the Association in Bali could be fruitful and produce tangible decisions pertaining to the issues of establishing a permanent secretariat and the proposal to have the Russian language as the second working language of the Association.
4. In his remarks, H.E. Mr. Arief Hidayat, the Chief Justice of the Constitutional Court of the Republic of Indonesia and the Term President of the Association, underlined the importance of the Secretary Generals in supporting the activities of the Association. This forum was deemed important for the sharing of information, coordination, and agenda setting of the Association. Furthermore, the Secretary Generals’ meeting would report to the Board of Members Meeting of its conclusion and recommendations on the discussion among members with regard to the establishment of a permanent secretariat.



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**Adoption of Agenda**

5. Turkey's representative suggested an agenda that includes the reference to recent attempted coup to overthrow the incumbent Government. Indonesia suggested a new agenda item related to the discussion of the next Presidency of the Association.
6. The adopted Agenda as amended appears as **Annex I**.

**Follow up of the outcome of the Meeting of the Secretary Generals on 30 – 31 May 2016**

*Working Paper on the Permanent Secretariat*

7. On the discussion of the Working Paper on the Permanent Secretariat, the majority of the representatives expressed their support for the establishment of permanent secretariat and that the Association should not further postpone or delay itself from taking decision upon this issue. In particular, the majority of the representatives also appraised and expressed their support for the joint permanent secretariat as proposed by Indonesia and Korea.
8. Some of the representatives reiterated their proposals and positions in relation to the establishment of a permanent secretariat. The representative of Malaysia proposed that apart from the joint permanent secretariat by Indonesia and Korea, the Association can still maintain a rotating secretariat to the term presidency. The term of such secretariat will be following that of the term presidency.
9. Meanwhile, the Philippines' representative conveyed her Chief's justice proposal that at this point the establishment of joint permanent secretariat should be perceived as an interim measure. Afterwards, the Association can dwell thoroughly on the issue of whether to establish a single or more than one permanent secretariat. Furthermore, she also expressed her Court's desire to co-lead the research and development efforts of the Association. She wished its court's proposal to be tabled at the BoMM as proposed.
10. The representative from Turkey reiterated its proposal to have a permanent secretariat in a single country with the opportunity of six-year rotating term and it still opposed the proposal of joint permanent secretariat by Indonesia and Korea as it is not viable nor do-able. Turkey also expressed its interest to host the permanent secretariat with a model of single country.
11. All the representatives agreed that decisions should also be made regarding amendments to the Association's Statute as a consequential implications of establishing permanent secretariat.



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12. The Meeting hence agreed to propose the following points to be decided by the Board of Members Meeting, as follows:
- a. The decision to establish the permanent secretariat should be taken promptly. A permanent secretariat would be an important bureaucratic body that ensures the institutional memory of the Association. It would also function to pool resources from members of the Association;
  - b. The form of the permanent secretariat should be a joint permanent secretariat with reservation by Turkey's and Azerbaijan's delegations preferring a single permanent secretariat, as well as reservation by The Philippines' delegation so as to the term of the permanent secretariat. The Meeting also acknowledged the considerations from the representatives of Malaysia and The Philippines. Malaysia proposed a two year rotating secretariat to the term president apart from the joint permanent secretariat. The Philippines preferred to use the term permanent divisions rather than permanent secretariat;
  - c. The proposed joint permanent secretariat shall be open to all members and for them to assign their human resources through secondment program or any other arrangements;
  - d. The necessity to amend relevant articles of the Statute to accommodate the establishment of joint permanent secretariat;
  - e. The Russian language to be used as a second working language in accordance with the substance of the proposal from Russia as submitted;
  - f. Members were encouraged to uphold consensus in their deliberation and decision making, even though Article 14 of the Statute provides voting mechanism in decision making. The Meeting further encourage the members that still have reservations to consider the majority views as the foundation to achieve consensus.



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***Board of Members Meeting and 3rd Congress***

13. The Chairman briefed the Meeting on the preparation made by the Constitutional Court of the Republic of Indonesia for the Board of Members Meeting and the 3rd Congress. The general overview was that the representatives were satisfied with the preparation conducted by Indonesia so far. Representative from Indonesia proposed to include the discussion on the next presidency to be discussed in the BoMM and this was supported by other members. In particular, representative from Indonesia reiterated its earlier proposal that the Secretary Generals' Meeting can also discuss the next presidency of the Association so as to lessen up the work of the BoMM. Korea's representative can concur with Indonesia's proposal while maintaining that the agenda on the next presidency can be placed as the first agenda item of BoMM.
14. In accordance with Article 21 paragraph 4 of the Statute, the Meeting made recommendations to the BoMM that the Chairperson of each meeting of the 3<sup>rd</sup> Congress would be Korea, Turkey and Indonesia, reflecting upon their previous and ongoing terms of presidency.
15. Noting since there was no candidate for the next president, and that there was no reference so far in the Statute regarding this matter, Russia suggested that the Meeting to formulate anticipatory mechanism. This could be prepared by Indonesia as the term President.
16. On the issue of the next presidency, the Meeting addressed the scenario where there was no member proposing themselves to be the president. Russia and Korea proposed that having no candidacy did not necessarily mean that Indonesia should take the next presidency. The Meeting agreed to have Indonesia as a "caretaker" which will be responsible to carry out the work of the Association up until the next president is elected.

**Bali Declaration**

17. The Meeting undertook a drafting upon the Bali Declaration which would be recommended for further discussion and approval by the BoMM. The draft Bali Declaration as revised appears as **Annex II** for consideration of the BoMM.

**Other matters**

18. The Meeting agreed that any issues that had not been addressed during the Meeting would be further discussed at the BoMM.

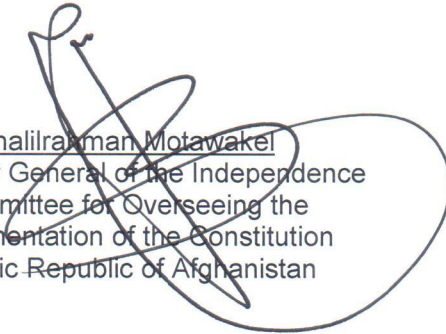


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Khalilrahman Motawake  
Secretary General of the Independence  
Committee for Overseeing the  
Implementation of the Constitution  
Islamic Republic of Afghanistan



Rauf Guliyev  
Secretary General  
of the Constitutional Court  
Republic of Azerbaijan



M. Guntur Hamzah  
Secretary General  
of the Constitutional Court  
Republic of Indonesia




Turarbek Masybaev  
Secretary General of the Constitutional  
Chamber of the Supreme Court  
Kyrgyz Republic



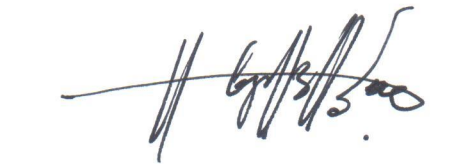
Bakyt Nurmukhanov  
Head of Legal Department  
of the Constitutional Council  
Republic of Kazakhstan



Yong Hun Kim  
Secretary General  
of the Constitutional Court  
Republic of Korea



Aslam bin Zainuddin  
Deputy Chief Registrar  
of the Federal Court  
Malaysia



Soronzonbold Norovsuren  
Head of Department of Cooperation,  
Information, and Technology of the  
Constitutional Court  
Mongolia



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May Hsu Hlaing  
Staff Officer  
of the Constitutional Tribunal  
Union of Myanmar

Anna-Li Papa-Gombio  
Deputy Clerk  
of Court En Banc of the Supreme Court  
Republic of the Philippines

Vladimir Sivitskiy  
Head of the Secretariat  
of the Constitutional Court  
Russian Federation

Abdumajid Gulzoda  
Chief of Staff  
of the Constitutional Court  
Republic of Tajikistan

Pimol Thampitakpong  
Secretary General  
of the Constitutional Court  
Kingdom of Thailand

Yucel Arslan  
Rapporteur Judge  
of the Constitutional Court  
Republic of Turkey



**THE 3<sup>RD</sup> CONGRESS  
ASSOCIATION OF ASIAN CONSTITUTIONAL COURTS  
AND EQUIVALENT INSTITUTIONS  
8-14 August 2016, Bali-Indonesia**



**PROVISIONAL AGENDA  
MEETING OF THE SECRETARY GENERALS**

- Item I** : **Adoption of Agenda**
- Item II** : **Follow up of the outcome of the Meeting of the Secretary Generals on 30-31 May 2016**
- a. Working Paper on the Permanent Secretariat
  - b. Proposed Amandment of the AACC Statute regarding the following:
    - 1) AACC Secretariat
    - 2) Working Language
    - 3) Financial Contribution
  - c. Board of Members Meeting and 3rd Congress
  - d. Outcome on the WCCJ Bureau Meeting
  - e. Cooperation with CCJA
- Item III** : **Other matters**

# **BALI DECLARATION ON THE PROMOTION AND PROTECTION OF CITIZENS' CONSTITUTIONAL RIGHTS**

## **The Third Congress of the Association of Asian Constitutional Courts and Equivalent Institutions**

Bali, Indonesia, 12 August 2016

1. We, the members of the Association of Asian Constitutional Courts and Equivalent Institutions (AACC), held the Third Congress in Bali, Indonesia, on 11 and 12 August 2016 under the main theme of "The Promotion and Protection of Citizens' Constitutional Rights."
2. The Congress was attended by delegates from constitutional courts and equivalent institutions and regional or language based groups of constitutional courts/institutions in the capacity as members and observers as well as guests of the AACC. It presented a notable opportunity to engage in a fruitful discussion, and to share knowledge and experience concerning mechanisms in the promotion and protection of citizens' constitutional rights as well as the role of constitutional court and equivalent institutions particularly through landmark decisions.
3. In the light of our past experience and findings of the present Congress, we declare as follows:
  - We reaffirm that constitutional courts and equivalent institutions have important roles for protecting citizens' constitutional rights against infringement through their efficacious decisions. We, therefore, believe that constitutional courts and equivalent institutions play an instrumental role in properly guaranteeing people's sovereignty by promoting human rights and constitutionalism principles for the maintenance of the democratic systems of government.



- We believe in the constructive collaboration of a regional cooperation and therefore invite the other constitutional courts and equivalent institutions in Asia to stand with us shoulder to shoulder in the AACC to uphold the independency of the constitutional courts and equivalent institutions, for the protection of human rights, democracy, and the rule of law.
- We uphold the principle that constitutional courts and equivalent institutions as one of the guardians of democracy should be free from interference by other branches of the state powers. Furthermore, we deplore (we stand against) any unconstitutional attempts aiming to abolish the constitutional order and to overthrow legitimate government in the countries of the members of AACC, including what recently happened in Turkey, for example.
- We resolve our collective efforts in strengthening the functions of AACC by establishing a permanent secretariat of the AACC. The new established Secretariat is envisaged to foster the process of achieving the AACC's objectives in promoting the protection of human rights, the guarantee of democracy, the implementation of rule of law, and the independence of constitutional courts and equivalent institutions, as well as providing platform for cooperation and exchanges of experiences and information among members.
- To further the efforts in protecting human rights and strengthening democracy, we enhance the global cooperation with other organization of regional groups. Therefore, we shall continue the process of concluding the memorandum of understanding with the Conference of Constitutional Jurisdiction of Africa (CCJA) as a mutual cooperation between two parties in order to implement the constitutional justice in the two regions.
- Appreciating the Constitutional Court of the Republic of Indonesia for successfully hosting the Third Congress of the AACC, we agree that -----  
----- holds the 4<sup>th</sup> Congress within the next two years. [we agree that Indonesia will act to serve as caretaker until the next President being elected].

Signed on August 12, 2016 in Bali, Indonesia by:

**Mr. Abdullah Shafae**

**Member of the ICOIC of the Islamic Republic of Afghanistan**

**Mr. Farhad Abdullayev**

**Chairman of the Constitutional Court of the Republic of Azerbaijan**

**Mr. Arief Hidayat**

**Chief Justice of the Constitutional Court of the Republic of Indonesia**

**Mr. Igor Rogov**

**Chairman of the Constitutional Council of the Republic of Kazakhstan**

**Mr. Erkinbek Mamyrov**

**President of the Constitutional Chamber of the Supreme Court  
of the Kyrgyz Republic**

**Mr. PARK Han-Chul**

**President of the Constitutional Court of the Republic of Korea**

**Tun Arifin bin Zakaria**

**Chief Justice of the Federal Court of Malaysia**

**Mr. Jantsan Navaanperenlei**  
**Chairman of the Constitutional Court of Mongolia**

**Mrs. Hla Myo Nwe**  
**Member of Tribunal of the Constitutional Tribunal**  
**of the Union of Myanmar**

**Honorable Maria Lourdes P. A. Sereno**  
**Chief Justice of the Supreme Court of the Philippines**  
**By: Atty. Ma. Lourdes E. B. Oliveros**  
**Chief Justice Staff Head**

**Mr. Gadis Gadzhiev**  
**Judge of the Constitutional Court of the Russian Federation**

**Mr. Mahkam Mahmudzoda**  
**Chairman of the Constitutional Court of the Republic of Tajikistan**

**Mr. Nurak Marpraneet**  
**President of the Constitutional Court of the Kingdom of Thailand**

**Mr. Zühtü Arslan**  
**President of the Constitutional Court of the Republic of Turkey**