



5TH CONGRESS
OF THE WORLD CONFERENCE
ON CONSTITUTIONAL JUSTICE (WCCJ)



THE CONSTITUTIONAL COURT OF
THE REPUBLIC OF INDONESIA



AACC – CCJA JOINT CONFERENCE
**“CONSTITUTIONAL JURISDICTIONS
AND PROTECTION OF
FUNDAMENTAL RIGHTS:
CROSSED LOOKS FROM AFRICA
AND ASIA”**

NUSA DUA, BALI, 4 OCTOBER 2022

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CONSTITUTIONAL COURT
REPUBLIC OF INDONESIA

PROF. DR. ARIEF HIDAYAT, S.H.
IN AACC – CCJA JOINT CONFERENCE
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Assalamu ‘alaikum Wr. Wb.

Good morning,

Peace be upon you and our world.

- Your Excellency President of AACC;
- Your Excellency President of CCJA;
- The Honorable Presidents of Constitutional Court and equivalent institutions within AACC and CCJA, and,
- Distinguished Ladies and Gentlemen.

The historical trajectory is still crystal clear about the extraordinary atmosphere and enthusiasm of countries in Asia and Africa when attending the Asia-Africa Conference held in Bandung from April 18 to April 24, 1955.

How monumental the presence of 29 heads of state and government in Asia and Africa at that time was. The majority of countries had recently been independent from colonialism. Countries that dared to oppose colonialism and imperialism. Countries that aspired to world peace. The presence of the leaders of the Asian-African countries was based on the spirit of respect for state sovereignty, equality, and a great desire to knit together solidarity and strength to face global challenges at that time.

That spirit is still relevant, echoed, and must be continued. At this point, the Constitutional Court of the Republic of Indonesia, as a member of the AACC, invites all members of the AACC and CCJA to attend this joint conference to actualize the spirit, events, and struggles of the Asian-African Conference.

Your Excellency President of AACC, President of CCJA, Heads of Delegation, Distinguished Guests,

The global challenges we face today are certainly different from when the Asia-Africa Conference was held. Today those challenges have come a long way. The world's economic, political, legal, and social environment and ecosystem are increasingly complex, especially along with the leap in the development of digital technology that enables changes to occur very quickly in various aspects of life.

In this current situation, collaboration and cooperation between us, among the Constitutional Courts or similar institutions in Asian and African countries, need to be improved. New cooperation in fields that are following the corridors of the authority of each institution, in this case in the realm of the judicial branch of power, is important to be initiated and carried out.

Therefore, when I served as Chief Justice of the Constitutional Court of the Republic of Indonesia and also as the President of the AACC from 2015 to 2018, I was committed and had a mission to realize the union of AACC and CCJA. I believe that these two associations share the spirit of the Asia-Africa Conference, and therefore, many things can be collaborated in a framework of mutual respect to achieve common goals and interests.

In March 2016, when the AACC initiated to establish a permanent secretariat, I did not look for references anywhere, I immediately referred to the CCJA Permanent Secretariat to learn and find out how to manage a permanent secretariat of a Constitutional Court organization in the regional scope. We have learned and gained a lot from the Permanent Secretariat of CCJA. We have adopted many concepts and practices in line with the establishment of the Permanent Secretariat of AACC.

After the Permanent Secretariat of AACC was established, as the President of AACC, I specifically met the President of CCJA at that time, Mr. Mogoeng-Mogoeng (Chief Justice of the South African Constitutional Court at that time) several times, among others in Venice-Italy, in Batumi-Georgia, and also in Indonesia, to discuss more seriously the plans for the collaboration between AACC and CCJA.

Finally, in August 2017, that wish could be realized. The signing of the Memorandum of Understanding between AACC and CCJA took place in a simple ceremony in Surakarta, Indonesia. I think today is one of the concrete manifestations of the Memorandum of Understanding to strengthen and design open collaborations, both for now and in the future.

Your Excellency President of AACC, President of CCJA, Heads of Delegation, Distinguished Guests,

One of our most important issues is how the Constitutional Court and constitutional judicial bodies in Asian and African countries have a role and contribution in maintaining and protecting the basic rights of citizens, upholding human rights, and being able to build law through various decisions to realize mutual prosperity in each country.

Concerning the protection and fulfillment of basic rights and human rights, Asian and African countries have distinctive and unique characteristics when compared to countries on other continents. The nations in Asia and Africa have communal values as their basis. In this case, communal interests are prioritized over individual interests. In Indonesia, these communal values are one of the essences of Pancasila values, namely advocating cooperation. These communal values are indeed different from the principle of universality, including individual rights, which has been carried out and has become a prominent character of Western society.

The cosmology of the Asian and African nations, which have a more “collective” view, allows for interaction and mutual access between one individual and another but does not displace and negate one another. This clearly cannot be equated with the Western view which is more “individualist”. Edison Zvobgo (1979) in his book “A Third World View (on Human Rights)” wrote, *for us Africans and Asians, the human image that underlies the Declaration of Human Rights is completely incomprehensible. According to this image, a human is an individual who is separated from society and is considered a carrier of complete human identity. Humans like that in the eyes of Africans and Asians do not exist. For Africans and Asians, such a human, that is the one who determines his or her path alone towards own happiness, is independent of others.*

Soekarno called it extreme individualism, namely individualism that separates people from society altogether. This is what gave birth to liberalism, capitalism, and imperialism which we all clearly resist.

Your Excellency President of AACC, President of CCJA, Heads of Delegation, Distinguished Guests,

Human rights are contextual. Respect, promotion, protection, and fulfillment of human rights are highly dependent on the local wisdom of each country, culture, tradition, and civilization of each country. In other words, human rights must be understood in the cultural context of each country, and cannot be generalized.

In such a framework, it must be admitted, the challenges of protecting and advocating human rights in Asian and African countries are very different from those of Western countries or other developed countries. In developed countries, challenges can include contemporary issues, such as pressure on journalists, blocking of internet resources, economic rivalry, same-sex marriage, forms of censorship that are incompatible with media pluralism, the right to access information, the right to protect personal data, and other rights related to the threat of negative excesses of the digital industry.

Meanwhile, in Asian-African countries, the enforcement of human rights is still related to the effects of instability or internal state political conflicts, violence, intolerance, freedom of expression, discriminatory treatment of minorities and vulnerable groups, rights of persons with disabilities, access to health, migrant workers, and the like.

This fact necessitates an approach to the protection and enforcement of human rights with a different focus, approach, and values between individualist Western countries and communalist countries in Asia and Africa. Therefore, the AACC and CCJA joint conference forum is expected to be a new avenue for collaborative cooperation between constitutional justice bodies, especially to contribute to finding potential solutions to overcome existing challenges.

Your Excellency President of AACC, President of CCJA, Heads of Delegation, Distinguished Guests,

Indonesia, which has taken part in the history of the 1955 Asian-African Conference, through the Constitutional Court of the Republic of Indonesia is ready to continue the fellowship and solidarity of Asian and African countries. To foster closer cooperation in various fields, especially in advocating the principles of the rule of law, constitutionalism, and democracy, as well as the protection and fulfillment of human rights to realize the common welfare of all its people.

Finally, I also support the continuation of the joint conference in the future, including the possibility and opportunity to establish a Permanent Joint Secretariat for the Asian-African Constitutional Court. The target is one, namely to strengthen cooperation between us, so that we are strong together, recover together, to guard the progress of civilization and the dignity of the Asian-African nations on the principles of justice and eternal peace. That is all and thank you.

