



Constitutional Court of Korea

**Association of Asian Constitutional Courts and Equivalent Institutions
Secretariat for Research and Development**

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AACC SRD

AACC Secretariat for Research and Development

1st Research Conference of the AACC SRD

Jurisdictions and Organization of AACC Members

29 May – 1 June 2018, Seoul, Republic of Korea

CONCEPT AND MATERIALS

The following aims to inform about (A) the concept of the Conference and (B) the materials expected to underpin discussion at the Conference. Annex I and II provide guidance for drafting the respective AACC Member Fact File.

A) Concept

The formation of the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) in 2010 was a milestone for greater cooperation in the field of constitutional justice in Asia. Another important step was the decision in 2016 to establish the AACC Permanent Secretariats. As a result, the AACC Secretariat for Research and Development (SRD) is starting its first research projects this year. This *1st Research Conference of the AACC SRD* will play an integral part in fulfilling AACC SRD's purpose of deepening mutual understanding between AACC Members via collaborative research.

According to Article 3 of the AACC Statute, objectives of the AACC are the following: Protecting human rights, guaranteeing democracy, implementing the rule of law, ensuring the independence of constitutional courts and equivalent institutions, and facilitating cooperation and exchanges of experiences and information among AACC members. The first step towards reaching these objectives is to take stock of the varieties of constitutional adjudicatory systems that exist among the AACC Members.

By precisely understanding how each AACC Member is institutionally organized, and which constitutional jurisdictions each enjoys, AACC SRD can gradually, with the support of AACC Members, highlight issues of mutual interest, as well as explore common problems and solutions. Also, sharing

knowledge regarding unique characteristics of each AACC Member will be of great value in the process of fostering mutual understanding. The purpose of this Conference is thus to take a significant step in finalizing a set of publications and resources, aiming to give an overview of the organization, jurisdictions and selected case law of AACC Members.

The conference theme *Jurisdictions and Organization of AACC Members* reflects the proposed contents of the AACC Member Fact Files, which AACC SRD is currently working on. The materials to be submitted by AACC Members prior to the Conference (see Section B. of this Concept Paper) will provide the primary material for the drafting and editing of AACC Member Fact Files by AACC SRD. Discussion at the conference gives AACC SRD and AACC Members the opportunity to clarify issues raised in the materials.

Presentations should focus on two key areas:

I. Constitutional jurisdictions of AACC Members

- For AACC Members operating a centralized system of judicial review, AACC SRD seeks to map out the range of enumerated constitutional jurisdictions available at each AACC Member. AACC SRD is thus interested in which descriptive headings are used by AACC Members to classify their jurisdictions, and to what extent these fit broader theoretical categories of constitutional jurisdictions. Examples include constitutional review (abstract and/or concrete), competence dispute (vertical and/or horizontal), individual complaints (e.g. full constitutional complaint), adjudication of impeachment, dissolution of political parties, and the resolution of election or referendum disputes. Within the context of enumerated jurisdictions, existing variations and additions merit further discussion.
- For AACC Members with decentralized and hybrid systems of judicial review, AACC SRD is seeking to find a way to accurately and efficiently categorize their respective case law collections in the AACC SRD case law database. Absent specifically enumerated types of constitutional jurisdictions, AACC SRD is particularly interested in how each AACC Member with a decentralized or hybrid system of judicial review categorizes its jurisdictional powers when adjudicating cases of constitutional significance.

II. Organizational structure of AACC Members

- Key points of interest include the organization of leadership at the institution, the appointment procedure(s) of Justices, the recruitment and duties of research staff, and the size and scope of administrative departments.

- The organization of research staff is of particular interest. This is because there currently does not exist much comparative material regarding this subject in the Asian context. For example, questions concern the variety of names for such staff (e.g. rapporteur judges / research officers / assistant-magistrates / legal advisers, etc.), qualifications and conditions for recruitment and training, specific duties (e.g. research and preparation of cases or actually drafting decisions), organization and working methods (e.g. working directly with Justices or forming part of research groups with specialized areas of expertise), as well as the flexibility of the system (e.g. whether specific research groups form on an ad hoc basis depending on the case at hand).

B) Materials

In order for the Conference to run smoothly and generate maximum value for all participants, AACC Members are kindly requested to submit two key documents in advance of the Conference. This will enable all documents to be circulated among the AACC Members before the 1st Research Conference of the AACC SRD takes place. After the Conference, the materials will be uploaded to the AACC SRD website and/or published in other forms in the future.

To allow all participants to adequately prepare for the Conference, it is important for each individual participant to provide the necessary materials in advance for timely circulation by AACC SRD among AACC Members. The documents can be submitted in draft form, since by taking into account discussions during the Conference, AACC SRD expects to conduct further rounds of editing and consultation after the Conference.

DOCUMENT 1: AACC Member Fact File

To be submitted in Microsoft Word format by **1 May 2018**.

AACC SRD is aware that there may be great variation in terms of organizational structure, terminology and jurisdictional powers of AACC Members. However, AACC Members are encouraged to follow the example provided in Annex I and II of this Concept Paper. Please fill out the document in Annex I, using the document in Annex II as a guide. Any problems and concerns can be raised and discussed at the Conference. The purpose of the Conference is to find the best way to systematically conduct and present comparative research for the benefit of all AACC Members.

Expected contents:

I. Introduction

1. History
2. Basic texts

II. Organization

1. President
2. Justices
3. Department of Constitutional Research
4. Department of Court Administration
5. Other (and/or include an organization diagram to summarize Section “II. Organization”)

III. Jurisdictions

Please enumerate and explain the range of constitutional jurisdictions the respective AACC member enjoys. If applicable, please utilize the same subheadings for each constitutional jurisdiction as contained in this section of the Fact File (key legal provisions, purpose, causes for request, procedures, decisions and effect).

- Annex 1. Case Statistics

- 1-1 Since establishment
- 1-2 Last five years

- Annex 2. Summaries of landmark cases (choice of cases can be explained further at the conference)

- Additional materials

- ➔ Latest version of the Constitution of the AACC Member’s country (1 copy in the official language, 1 copy in English).
- ➔ Latest version of the Constitutional Court Act or equivalent legislative text, which provides a legal basis for the operation and functions of the AACC Member (1 copy in the official language, 1 copy in English).

DOCUMENT 2: Presentation text

To be submitted in Microsoft Word format by **15 May 2018**.

Each AACC Member participating at the Conference shall give a presentation of around 15 minutes. This will be followed by around 15 minutes of Q&A for discussion and clarification of issues raised in the presentation.

The presentation should focus on two parts, each aiming to give a quick overview of key points contained in the AACC Member Fact File.

Part 1: Brief overview of the constitutional jurisdictions of the AACC Member.

- Please refer to Section A) I. of this Concept Paper for further guidance. Also, rather than giving an exhaustive overview (as already contained in the Fact File), the presenter can choose to explain any unique characteristics of their home institution's constitutional jurisdictions in greater depth, or give an evaluation of related issues such as highlighting any suggestions for reform (if applicable).

Part 2: The organization of the AACC Member's research staff system.

- If applicable, the presentation gives the AACC Member participant the opportunity to explain in greater depth the organization and function of research staff at their home institution. Please refer to Section A) II. of this Concept Paper for further details. Also, please attach a diagram of the research staff system (if applicable) to the presentation text.

Contact:

For queries regarding the concept, content and materials for the Research Conference, please contact:

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