

❖ Preface ❖

**The Role of Constitutional Review Bodies in the Asian Post-Authoritarian
Democratization Process. A Comparative Perspective**

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What is the system of constitutional review? In modern times it is often discussed in relation to democracy. In the former eastern bloc countries of Europe, a constitutional review was introduced along with the changes in their political and legal systems, and it was widely agreed that having a constitutional review system was considered a membership card for the constitutional democracy club. If to look at a broader Asian perspective, Korea, Mongolia, Uzbekistan, and Myanmar have all introduced constitutional review bodies as a part of their democratic transition. In Vietnam, in the context of the 2013 Constitutional amendments, there were increasing expectations of introducing a Constitutional Council or Court as a part of the democratization process.

Nonetheless, the system of constitutional review is essentially a system to ensure constitutionalism. Constitutionalism emphasizes the protection of the rights of the minority. Thus, there is an aspect of incompatibility with democracy, which places importance on the will of the majority. Although the accepted view of the constitutional review system is that it is ‘one of the preconditions for the existence of a pluralistic democratic process,’ it can be said that in the process of introducing and developing a constitutional review system, the way in which democracy is concretely understood and how the system of constitutional review is linked to that understanding is prescribed within the historical context of each country. This, in turn, creates the ‘uniquely difficult to define’ independently developed constitutional review systems of each country.

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A common denominator tying all mentioned countries is that all of them have experienced in the past or continue suffering to a certain extent an authoritarian rule. Furthermore, four of the developing economies are either socialist or states, which are on the way of post-socialist transition. Hence, the level of democratic developments, as well as characteristics of the constitutional review in mentioned five states, is visibly different.

Within the scope of the present panel, it is planned to address multiple factors regarding the constitutional review bodies and their role in posing a positive impact on democratization. Specific attention will be paid to the political and institutional aspects, including on parliamentary interactions, variations of the judicial review designs, the conceptualization of the rule of law tradition, and the level the constitutional review bodies' independence in political deliberations.

The objective of this special volume is to distinct the reasons behind the establishment and intentions to establish constitutional review bodies in Korea, Mongolia, Uzbekistan, Vietnam and Myanmar, clarify factors that shape their operation modes, and examine their capacity to contribute to the political process, democracy, and the rule of law in mentioned states.