

THREE PHILOSOPHICAL PILLARS OF THE 2022 ARMENIAN CONSTITUTIONAL REVISION: EMPOWERMENT OF PUBLIC DISCOURSE, THEORY OF JUSTICE, AND ENVIRONMENTAL ETHICS

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Abstract: The first chapter of this article presents the consequences of the 2015 constitutional change and the specifics of their implementation before and after the 2018 Velvet Revolution. The second chapter makes substantive considerations on the constitutional reforms launched in 2022 through the prism of the rule of law and the improvement of public discourse. It addresses the procedural democracy developed by modern political philosophy and focuses on legal mechanisms in an attempt to improve the political discourse promoted by Jurgen Habermas. It also discusses the theory of Justice developed by John Rawls and provides reflections on Environmental Ethics stemming from the philosophy of responsibility of Hans Jonas.

Keywords: transition from semi-presidential governance into parliamentary democracy, constitution making, constitutional change, empowerment of political discourse, political shared culture, recognition of social, economic, and cultural rights, theory of justice of John Rawls, environmental ethics.

The constitutional change of 2015 transformed Armenia from a semi-presidential system of governance into a parliamentary democracy. Former President Serzh Sargsyan ensured the public that he did not have any intention to become a Prime Minister after the transition becomes effective. Despite the promise, Serzh Sargsyan stood as a candidate for the Prime Minister's position and was elected by the Parliament in April 2018. That election prompted demonstrations, marches, and other acts of civilian disobedience of an unprecedented scale paralyzing the work of public institutions which become known as the "Velvet Revolution" (*USA Helsinki Commission, Revolution in Armenia?*, 2018, p. 4). Serzh Sar-

gsyan was forced to resign on 23 April 2018 and Nicol Pashinyan, the leader of the opposition came into power. During the campaign ahead of the 2021 snap parliamentary elections, which came about after the loss of the Nagorno Karabakh war, Prime Minister Pashinyan promised a constitutional revision. The key point of his 2021 election campaign was the promise "to complete the unfinished job of the revolution" and the struggle was between two polarised camps that had zero tolerance for each other and viewed each other as the enemy. Nikol Pashinyan secured a confident win in the elections and launched constitutional revision.

An analysis of the 2015 amendments to the

Constitution of Armenia reveals the main triggers of the proposed changes and the consequences of a “false agenda”. Apart from the uncompleted transition from a semi-presidential system to parliamentary democracy, the constitutional change of 2015 introduced the division of fundamental human rights, downgrading the economic, social, and cultural rights. It buried the environmental agenda and diminished the quality of political discourse. The first part of this article presents the consequences of the 2015 constitutional change in Armenia and the specifics of their implementation before and after the 2018 Velvet Revolution. The second part makes substantive considerations on the constitutional reforms launched in 2022 through the prism of the rule of law, environmental ethics, the indivisibility of human rights and improvement of political discourse.

1. The Aftermath of the 2015 Constitutional Change Instigating the Transition from a Semi-Presidential System of Governance to a Parliamentary Democracy

The constitutional change of 2015 established the parliamentary system of governance in Armenia and almost all presidential powers were transferred to the Prime Minister. In the parliamentary system, the relationship between the legislative and executive branches of power, including the checks and balances are different and the dividing line is more emphasised between the political majority and the parliamentary minority. The developments following the constitutional change present a better context in assuming, that they were implemented, in addition to other matters, for Serzh Sargsyan to stay in power as Prime Minister after the completion of the presidential term (Foster, 2019). The introduced amendments were based not on frameworks that should have facilitated high-quality substantive discourse in the state’s political machinery, but rather on the intention to maintain the power in the hands of one individual by revising the format of the transference of power. This would allow the former President, who by many experts has been considered the sole decision-maker in the semi-presidential system of governance with a non-functioning parliament, to continue ruling with an iron fist through the parliamentary ma-

jority that he formed (Khalatyan, 2023).

The aftermath of these amendments can be broadly divided into two periods. The period prior to the 2018 Velvet Revolution, when the constitutional framework was used to keep the power in the hands of one individual with the help of the political majority (A). An analysis of the second period which was after the 2018 revolution, becomes important considering that all heads of key state institutions (President, Secretary of the National Security Council, Minister of Defense, Chief of General Staff of the Armed Forces, President of the Constitutional Court, President of the Supreme Judiciary Council) and the political parties in the parliament changed. Following the Velvet Revolution, after the snap elections of 2018, many activists representing civil society who had fought for years in pursuit of the establishment of democracy and fair elections in Armenia were elected members of the parliament, and the public had great expectations from them. Despite the high legitimacy of the parliament, nevertheless, the imposing will of the political majority was maintained, this time mainly due to the low quality of political discourse and a lack of shared political culture (B).

A. Preservation of Self-Serving Constitutional Powers through “Dictatorship of the Political Majority”

In the parliamentary system of governance, legislative and executive powers are somewhat merged, deriving from the mandate given to the parliament to form the government (le Divellec, 2016, p. 168). Armel le Divellec provides an excellent description of the relationship between the political majority and the government, noting that the principle of political accountability of the government before the parliament leads to the unity of opinions of these two institutions. Moreover, Armel le Divellec notes “the government can lead and rule the political majority in the parliament, and, in turn, the political majority can demand the right to be heard in exchange for its support to the government and labels this relationship as a fusion of powers in contrast to the separation of powers”. This merger significantly changes the implementation of the principle of checks and balances. To understand the real balance of powers, it is imperative to further exam-

ine the relationship between the political majority and the parliamentary minority, particularly, to consider the constitutional tools (levers) given to the parliamentary opposition, their use and practicality, and the political discourse in the country's political system. From the perspective of constitutional design and the assessment of the current constitutional framework, the major factors developed by modern political philosophy are the following: the electoral system in place; the election of the Prime Minister and the formation of the government; the mechanisms of forming coalitions; the procedure of vote of no-confidence against Prime Minister and dissolution of the parliament; the powers and duties of the "non-executive president"; the constitutional status of the opposition (opposition leader). It is also vital to consider the frameworks, which the Constitution provides for the political parties to participate in the formation of politically neutral bodies (Central Bank, Central Electoral Commission, etc.), including the judiciary as well as the solutions the Constitution offers for deadlock situations (when the political majority is not able to secure the requested 3/5th supermajority in the parliament and make nominations).

Firstly, despite the adoption of the proportional electoral system at the constitutional level, the Electoral Code transformed proportional representation into a ranked voting system. This is a proportional system, in which citizens vote for a political party or bloc, but the state is divided into a certain number of electoral districts where each party has a list of candidates for each district. When voting for a party, the voter can also choose a candidate from that party for the specific constituency, and the candidate with the most votes will get the most favorable ranking in their party to enter the parliament. This type of electoral system enhances the role of individuals who have better public influence in their specified electoral district. Typically, these candidates were not originally part of the political party, they neither share the political party mentality nor participate in any movement led by the party. However, the leader of the ruling party needs their influence to gain the most votes, and the leader remains the only authority for them (the ranked voting system was abolished under the government of Nikol Pashinyan). Secondly, the Constitution envisages the possibility of selecting the Prime Minister through the second round of

direct elections (a guaranteed stable parliamentary majority). When no political party wins most seats and no coalition is brokered within the established period, two political parties with greater votes enter the second round of direct elections. It should be noted that the political forces that gain enough votes to pass the first round of elections (i.e., reach the required threshold) can join any of the two powers, or they can keep their mandates and enter the parliament without participating in the second round. The leader of the political power that wins the most votes in the elections becomes Prime Minister by law. A guaranteed stable parliamentary majority means that the winner after the first or second round of elections should get as many additional seats as necessary for it having at least 52% of all seats in the parliament. These regulations do not facilitate a culture of compromise and agreement on inter and intra-party levels. The major political parties do not have to reach an agreement with the minority parties that have fewer seats in the parliament, and they can impose the second round of elections. Additionally, the guaranteed stable parliamentary majority does not facilitate the development of democracy within the political party. The political party leadership should consider the opinions of its members of Parliament (MPs) and do its best to prevent them from leaving. The stable majority provides the winner of the election with additional seats in the parliament and thus further strengthens the position of the political majority's leader, who can afford to lose a few members. That does not facilitate democratic processes within the ruling party, and the leader of the political majority can maintain power unchallenged. Thirdly, all appointments to the politically neutral institutions established by the Constitution (the Central Bank, Central Electoral Commission, Audit Chamber, High Judiciary Council, Television and Radio Commission, as well as the nomination of the Human Rights Defender and the Attorney General) are made by the parliament without any specific powers given to the parliamentary minority, while executive, diplomatic, and military senior officials are appointed by the Prime Minister without any parliamentary procedure in place at least to question those appointments. The Constitution does not establish any procedure for election or short-listing of candidates, such as the establishment of the joint panel by the political majority and the

minority with the possible involvement of representatives from civil society and legal organizations, professional bodies, and/or the nomination of a candidate by the parliamentary opposition or the opposition leader (on possible scenarios please see *International IDEA, Opposition and Legislative Minorities: Constitutional Roles, Rights and Recognition. International IDEA Constitution-Building Primer 22*, 2021). There is no reference to competition or merit-based requirements in the law. Moreover, the constitutional regulations do not support a meaningful association between the non-executive president and the politically neutral bodies that must remain non-partisan (*International IDEA, Non-Executive Presidents in Parliamentary Democracies, International IDEA Constitution-Building Primer 6*, 2017, pp. 7-13). The President does not have any power in the formation of these institutions except nominating a candidate for the justice of the Constitutional Court.

Under the current Constitution, the candidate is appointed to the given position if he or she receives a 3/5th of the votes in parliament. It might seem that the high threshold can force political powers to negotiate, but then two scenarios transpire, and in both the political majority's candidate is appointed. In the first scenario, the ruling party or bloc has a 3/5th of all seats in which case the parliamentary minority simply cannot play any role. We witnessed this scenario in recent years, and the Constitution does not provide any alternative action for the parliamentary minority. In the second scenario, the ruling party or bloc does not have a 3/5th of the votes but does not want to reach an agreement with the parliamentary minority. The Constitution considers the matter a deadlock and establishes the involvement of the President as a solution. Given that the President is elected by the political majority, any deadlock situation at the end is solved through the person who has been elected by the political majority. In both scenarios, the political majority holds all cards.

As far as the role of the parliament and its committees in the appointment of political, diplomatic, and military senior officials is concerned, they do not have any involvement and the entire process is run by the executive. The government is formed by the Prime Minister without any involvement of the parliament or standing committees. The National Assembly

and its committees are not provided any role by the Constitution in the selection and nomination of the candidates for ambassadors or heads of law enforcement and other security sector bodies. There is no discourse, the parliamentary minority has no lever to investigate or delay the appointments. Moreover, the Constitution does not oblige the government to consult with the parliament's standing committees before making substantial changes in vital areas such as foreign policy and armed forces. For instance, in Denmark, a substantial change in foreign policy must be consulted beforehand with the standing committee on foreign affairs (Para 3, Article 19 of the Danish Constitution). Arts 152 and 155 of the Armenian Constitution clearly establish that in case of urgent need, the Prime Minister can make the decision on the use of armed forces at the suggestion of the defense minister, informing the government about it. In other words, the parliament is not involved in the decisions concerning the deployment of armed forces outside of the Armenian territory and the deployment of foreign armed forces in Armenia.

The analysis of the above-mentioned items allows us to state that the constitutional amendments of 2015 consolidated the "dictatorship of the political majority" as all the decisions at the end are taken by the running majority without providing any meaningful rights for the parliamentary minority and while having a non-executive president as the ceremonial figurehead.

B. The Velvet Revolution and the Continuation of Poor Political Discourse

Lord Sumption (2020), the former UK Supreme Court judge, in his lecture at Oxford Martin School referring specifically to the Westminster parliamentary democracy demonstrates the role of the conventions as a main barrier against the ministerial despotisms which would otherwise follow and affirms that its effectiveness largely depends on the shared political culture. Lord Sumption (2020) defines the shared political culture "as a mutual acceptance that the Constitution must be made to work in the interests not just of one side but of the system as a whole, it embodies what are the proper limits for political propriety and means not everything that you can

get legally should be done. All of this requires a culture that accepts pluralism and diversity of opinions, in which opponents are not enemies but fellow citizens who disagree and with whom it is necessary to engage". Contemporary political philosophy views democracy from two perspectives. The first approach is based on "the relativity of values," according to which the mind cannot determine what the truth is. According to this perspective, the legitimization of orders is based solely on power, in other words - the will of the majority. The supporters of the second approach prioritize the "substantial approach," according to which the mind can determine the axiological hierarchy that the sovereign, too, must respect. In other words, a decision is democratic if its substance is democratic. While the first approach affirms the tyranny of the majority over the minority, the second approach views the tyranny of experts (lawyers, scientists, economists, and others) in a balance against citizens and politics (Viala, 2014, p. 136). Today, there is already talk of a third approach, the "processual" concept of democracy (developed mainly by Jurgen Habermas) which explains the democratic nature of adopted decisions by the quality of the decision-making process, rather than the power or the truth; it prioritizes the ethicality of the discourse, and the rules and culture by which the political forces relate and reach decisions (Habermas, 1997, 1987). Therefore, the existing constitutional provisions should be examined for determining the extent to which they secure a high-quality of discourse and the realization of the main principles of parliamentarism - publicity and debate (Schmitt, 1988). This concept brings into focus the ethics of discourse and the rules and culture of interaction and decision-making among the political forces (Viala, 2014, p. 136). After the Velvet Revolution, the matter of the legitimacy of the parliament was settled in Armenia, and all the pre-conditions for the functionality of the parliament were ensured. Ordukhanyan (2022), an Armenian political scientist, through his method for verbal assessment of political culture, evaluates political regime and political discourse with five variables. Using this method and through the analysis of political processes that occurred between 2017 and 2021 Ordukhanyan (2022) demonstrates that although there has been progress in terms of political regime, the progress cannot be viewed as substan-

tial in terms of interactions between main political parties. Society is divided into a "us versus them" narrative, the so-called "revolutionaries" and "the old ones". One can observe a fractured interaction between the two camps and at times stubborn one-sidedness. A large portion of the society demands transitional justice mainly addressing the demands of victims and their families for truth, reparations, and accountability for human rights violations, including those related to violent political repression, the detention of opposition activists, the corrupt and unjust expropriation of property in Yerevan, and the deaths under suspicious circumstances in non-combat situations of young Armenian conscripts in the military (Carranza & Abrahamyan, 2021), political recognition of "usurpation of statehood" (at the core of the roadmap developed by Asparez Journalists Club, Open Society Foundations Armenia, Transparency International, Union of Informed Citizens, Helsinki Committee of Armenia, and Helsinki Citizens' Assembly-Vanadzor (*Concept of the reforms necessary to restore the Republic of Armenia (Roadmap)*, 2018)), and investigation of the privatization process that took place after the collapse of the USSR under the third Armenian Republic. Civil society organizations raise the issue of restoration of social, economic, and cultural rights, which were removed from the list of fundamental human rights and freedoms by the 2015 constitutional amendments. Moreover, the Constitution no longer provides for the right to a clean, healthy, and sustainable environment, and the State's constitutional obligations toward the protection of the environment are reduced. There are continuous and justified calls for addressing the injustices that have been caused by corruption since the country became independent.

As the underlying issues leading to the Velvet Revolution are yet to be openly and publicly addressed, the process of reconciliation has not borne fruit or arguably completely formed in Armenia. This was apparent in the latest snap elections of 2021 that were held again following the agenda and promises of the 2018 revolution. During the latest snap elections, two main camps were radicalized on the background of the active formation of factions within the parties (Revolutionaries within the ruling party and revanchists and nationalists within the opposition). The current ruling party asked for the mandate to finish

the job it had started. Society had reservations that the representatives of the previous regime could return to power. High-quality political discourse was undermined largely by the constant criticism against “the old regime” without initiation of the reconciliation process, which makes the discourse non-constructive, and mainly reliant on emotional appeals.

The legitimate parliament did not always display high-quality political discourse nor was the Constitution interpreted in line with the political shared culture but merely to advance the political majority’s will. For instance, although parliamentary inquiry commissions are created by the parliamentary minority, the number of members of the inquiry commission is determined by the majority of votes in a Parliament. In recent years, the Parliament did not vote on a decision, which would define the number of members in the inquiry commission, thus obstructing the work of inquiry commissions formed by the parliamentary minority. Certain powers reserved for the parliamentary minority, such as the organization of urgent discussions, were not fulfilled as a quorum was not obtained. The majority considers that the parliamentary minority has the right to initiate processes, but if the majority does not want to participate in them, the initiatives will not be implemented.

Similarly, using the rules of procedure, the Parliament restricted certain levers the parliamentary minority can use. Article 121 of the Parliament’s Rules of Procedure (hereinafter also referred to as the Rules of Procedure) states that within the one and the same regular session, a faction may address an interpellation to the Government representatives no more than once, although there is no such restriction in the Constitution.

Article 118 of the Rules of Procedure states that during the debate of the annual report on the performance of the state budget, if the resolution is adopted, the report shall be considered approved, and in case of non-adoption it shall be considered rejected. This excludes the possibility of a third option (e. g. adoption with reservations). However, the Constitution does not state that there can be only two options in this case.

The abovementioned examples of application and interpretation of the Constitution demonstrate how the efficiency of the National Assembly is undermined if there is no shared political

culture and the quality of political discourse is weakened. In such circumstances, the main principles of parliamentary democracy – publicity and debate – are not completely fulfilled. All these issues discussed in this part largely explain the urgent move of the Prime Minister, Nikol Pashinyan to launch constitutional revision so that they can be properly addressed at the constitutional level.

2. The Push for the 2022 Constitutional Reform

The constitutional reforms of 2022 should be undertaken for the purpose of strengthening the rule of law and ensuring the intended empowerment of political discourse. That is well within reach if the process of reconciliation is implemented or at least launched in society, which also implies a restoration of social, economic, and cultural rights and the inclusion of the environmental agenda (A). This is also contingent upon the bolstering of the institutional mechanisms ensuring the rule of law (e.g. strengthening the institution of the Presidency, which is tasked to preserve the constitutional order but does not have sufficient discretionary powers to do so, revision of the relationship between the political majority and the parliamentary minority, and provision of additional levers of influence to the parliamentary minority, which will force the political powers to participate in meaningful and impactful discourse (B).

A. Launch of the Reconciliation Process, Encompassing the Introduction of An Inclusive Environmental Agenda, and Restoration of Social, Economic, and Cultural Rights

Article 3 of the Constitution states that the public authorities are restricted by the Fundamental Rights and Freedoms of Human Beings and the Citizens stipulated under Chapter 2 of the Constitution as directly applicable law. One of the most controversial changes largely deplored by civil society organizations the 2015 constitutional amendments led relates to the exclusion of social, economic, and cultural rights from the list of fundamental constitutional human rights and

freedoms. The rights to social security; health care; a healthy environment; an adequate standard of living for himself and his family, including housing; safe and healthy working conditions, the enjoyment of just and favorable conditions of work; and the right to take part in cultural life are excluded from the Chapter 2 on Fundamental Rights and Freedoms. Instead of directly applicable rights, some of those social, economic, and cultural rights have been transferred into a newly created constitutional chapter 3 entitled ‘Statutory Guaranties and Main Objectives of State Policy in Social, Economic and Cultural Spheres. The Government is only committed to providing a yearly report to parliament as to the steps undertaken for the fulfillment of its objectives in the social, economic, and cultural spheres. This change has had both dramatic axiological and legal implications on the protection of social, economic, and cultural rights in Armenia. Firstly, the rights and freedoms enshrined in Chapter 2 of the Constitution have indirect effects on private legal relations (horizontal effect), as judges must have in mind Fundamental Rights and Freedoms when adjudicating private disputes, as well as the parliament is restricted by these rights and freedoms while providing a legal framework for private relations (Hovhannisyan, 2020, p. 69). Secondly, neither the citizens nor the Human Rights Defender of Armenia are qualified anymore to apply to the Constitutional Court claiming the violation of the social, economic, and cultural Rights (the right to apply to the Constitutional Court is reserved only for cases of violation of fundamental rights and freedoms). Finally, the constitutional guarantees, including the principles applicable for the limitations of the rights and freedoms (proportionality, certainty, etc.) are reserved to the Fundamental Rights and Freedoms enshrined under Chapter 2; and therefore, not directly applicable to the social, economic, and cultural rights.

The drafters of the 2015 constitutional amendments referred to the old definition of socio-economic rights defining them in terms of positive entitlements, arguing that the constitutional recognition of socio-economic rights can politicize the judiciary, pointing out the difficulties to ensure their enforceability in courts, etc. Their supporters also note that by declaring these rights at the highest level and failing to fulfill them, the state reduces the importance of funda-

mental rights altogether. Several counterarguments have been summarized by the International IDEA in its Social and Economic Rights Primer 9. The fulfillment of these rights implies the distribution (share) of existing assets, not the creation of new resources. When we declare the right to housing, we imply that there at least should be a social housing strategy. Unfortunately, the 2015 constitutional amendments were largely driven by the utilitarian theory, which assumes that the right policy is the one that will produce the greatest good for the greatest number of people (Billier, 2010, p 58).

Meanwhile, remote villages that posed no threat to the authorities in terms of electoral weight, were but a few and far away from the capital found themselves in tough conditions. More than half of Armenia’s villages do not have proper water supply, and the quality of supplied water does not comply with the required standards (*Water Supply and Sanitation Sector Strategy, and Financing Plan for 2018-2030*, 2018, para 2(1)). Moreover, remote villages do not have any public transport that would connect them with the regional centers and so on. In the framework of transitional justice, which also involves constitutional intervention, it is imperative to restore social, economic, and cultural rights at the highest level and include elements of John Rawls’ *Theory of Justice*, which states that society is just if its progress is felt by each member or at least by the most vulnerable (Russ & Leguil, 2020, pp. 43-49; Rawls, 1987).

As to the enforceability of these rights in courts, in some countries, it was established that there is a certain minimum bar and a step below it would be unconstitutional, in other words, the achievement of a certain minimum core of socio-economic rights for everyone is possible (Chen-wi, 2013, pp. 742-769.). The progressive realization then proceeds from this minimum as state capacity increases (*Social and Economic Rights, International IDEA Constitution-Building Primer 9*, 2017, p. 21).

Along with the downgrading of the socio, economic and cultural rights, the most criticized aspect of the 2015 constitutional amendments relates to environmental rights. The environmental agenda was overlooked by the 2015 constitutional amendments, one could even say it regressed. The right to a healthy environment was omitted. Although the principle of cooperation

was established in the Constitution of 2015 (everyone is obliged to protect the environment) and references were made to sustainable development and responsibility toward future generations, the regulations are not completed yet. Based on the axiological and deontological challenges that technology has created Hans Jonas developed his theory of responsibility (Mommier, 2022, p. 23; Jonas, 2013). The Constitution states nothing about environmental responsibility and no reference to the precautionary principle. It is applicable when addressing innovations with the potential for causing harm when extensive scientific knowledge on the matter is lacking. The precautionary principle has been enshrined at the constitutional level by the French Charter for the Environment approved in 2005. It has largely extended the scope of preventive responsibility and goes beyond the damage, addressing the risk of damage (Ewald, 2008; Thibierge, 2004). The lack of efficient environmental impact assessments (cost-benefit analysis, efficient risk assessment techniques, etc.) saw irresponsible mining gain pace in Armenia. Without the mechanisms needed for the implementation of the precautionary principle, the number of mines, which were opened only to be exploited for a few years, grew, which brought the environmental situation in Armenia to the brink of collapse. Given the absence of the concept of environmental and sanitary responsibility (these two are in confrontation with the paradigm of freedom), the courts are not entitled to adjudicate on the environmental damage. Environmental damage is not perceived yet as harm to the ecosystems without any reference to the impact on human life. The ecosystems themselves do not have any intrinsic value under the legal regulations in Armenia. As for sanitary responsibility, it cannot have any place in the Armenian legal system because this type of responsibility is based on trans individual harm when the victims cannot be identified; they belong to some group of people who in the future might suffer or not any harm because of the environmental impact of some activities in question. The scope of the responsibility, the actors, compensation, and beneficiaries are subject to a unique regime developed under environmental and sanitary responsibility (Duffrène, 2020, pp. 215-231). The Constitution should at least create legal grounds for their further development within the legal system of Armenia. Finally, the pro-

cess of constitutional changes should include substantial debates on transitional justice. Affected groups and civil society (the victims of torture and political detention, the mothers in black seeking the truth about why their soldier sons were killed away from combat, farmers and rural communities who need access to social services, etc., Carranza, 2019) should be given chance to present their views and concerns. Comprehensive implementation of the constitutional drafting process can greatly contribute to reconciliation within the society even without resorting to controversial mechanisms such as vetting, reexamination of privatization of public property, etc. The bad state practices and the lessons learnt can be reflected in the preamble of the Constitution or other declaratory provisions of the Constitution, which will reduce public anger to a certain degree. We ought to use the opportunity provided by the process of constitutional reforms, to categorize the issues that have piled up over 30 years and give those a cautious assessment, listen to the affected groups, recognize their suffering, establish mechanisms to prevent violations, and promote integrity, professionalism, and responsible approach in the public affairs.

B. Constitutional Framework Consolidating High-Quality Political Discourse between Political Majority and Parliamentary Minority

Along with supermajority rules for enacting legislation, it is necessary to consider, firstly, the adoption of minority delay mechanisms that provide minorities with opportunities to scrutinize proposals, voice their opposition to them, and mobilize public opinion (*International IDEA, Opposition and Legislative Minorities: Constitutional Roles, Rights and Recognition. International IDEA Constitution-Building Primer* 22, 2021, pp 35-38). Secondly, several North European constitutions (Denmark and Latvia) in addition to the delay mechanisms adopted provisions on minority veto referendums. This rule enables the minority to suspend a bill, pending approval by the people in a referendum. It should be noted that these procedures have been used only a few times over decades in Nordic Countries, but the political majority was forced to consider the views of the opposition and compromise. In oth-

er words, these powers are largely aimed at facilitating the empowerment of political discourse in the country.

Under para 3, Article 89 of the Armenian Constitution, the Parliament must be elected through the proportional electoral system and the Constitution ensures a guaranteed stable parliamentary majority. The constitutional provision should be amended to exclude the distortion of the proportional voting system. The proportional representation in place should stimulate the parties to reach agreements, form coalitions, and ensure inter-party democracy.

Another sphere in which political moderation can be constitutionalized is that of appointments, especially appointments to politically neutral, autonomous bodies. The Armenian Constitution requires appointments to be made by a qualified majority of 3/5th of the members of parliament. In the latest two snap elections in Armenia, the political majority received more than 3/5th of parliament seats and the opposition did not have any say in the entire process. Moreover, there have been appointments of fellow party members from the political majority to those apolitical bodies after they resigned from Parliament, thus becoming technically non-partisan. There are several ways summarized by International IDEA in which the opposition's role may be exercised: consultations with the political minority, granting appointing power directly to the political minority, establishing the joint panel (with the involvement of representatives from the NGOs, legal and professional bodies) entrusted with the appointments or shortlisting. The competition and merit-based approach should be enshrined in the Constitution.

As far as the appointment of political, diplomatic, and military senior officials is concerned, it is necessary at least to empower the Parliament or its standing committees with additional tools to question the nominations, thus ensuring the fairness and transparency of the entire process. The standing committees of the parliament (on foreign affairs, defense, security, etc.) should hold discussions with candidates for ambassadors and senior positions in law enforcement and the security sector regarding their career paths and views on certain issues. Such discussions will motivate the candidate to take the job opportunity more seriously and at the same time will enchain the executive with the public opinion.

The range of matters under the parliament's jurisdiction is not usually defined in parliamentary democracy. It is assumed that all crucial decisions should be considered and approved by parliament. However, the strategic papers (National Security Strategy, Judiciary and Legal Reforms, etc.) that predetermine the adoption of the relevant legislative statutes are adopted in Armenia by its government without any parliamentary deliberation, although the parliament's involvement is required for the adoption of the statutes. There should be mechanisms in place to require consultation with the Parliament or its standing committees prior to the adoption of those strategic documents. Moreover, it is also important to consult the Parliament or its standing committees prior to any substantial change in foreign policy or the adoption of decisions on the use of military force as well as to provide the Parliament with more effective tools while exercising parliamentary oversight over the use of martial law or emergency regimes. With this respect, it is necessary to engage the Parliament in such decision makings (e.g. the Danish government must consult with the parliament's standing committee on foreign affairs about key issues of foreign policy) or establish procedures that make it mandatory for the National Assembly to conduct oversight. For instance, an ad hoc commission can be formed by law in case of the use of armed forces, declaration of emergency regimes, etc. The commission should oversee the implementation of measures under the martial or emergency regimes. As to the inquiry commissions, the Constitution should be amended so that the determination of the members' number, along with the execution of its powers can be carried out by a 1/3rd of the membership in the commission. In addition, the political factions as well as a 1/3rd of the standing parliamentary committee should be entitled to summon any public officer to appear before it and testify without resorting to the establishment of the inquiry commission.

Finally, the drafters should consider the formation of autonomous bodies under the umbrella of the Parliament consisting of independent experts (usually lawyers, lecturers, former militaries, etc.) with the aim of assisting the Parliament or its Standing Committees on Defense and National Security in exerting more effective parliamentary oversight over the security sector, including defense and national intelligence ser-

vices. The formation of these expert autonomous bodies proved very efficient in European countries, they succeed to bridge civil society with the politicians and experts with the main objective to ensure the rule of law in the security sector governance and promote effective dialogue within society. As well explained by (Jouanjan, 2016), concentrating the representation on the parliament significantly reduces the modern comprehension of the doctrine of the representative government. While recognizing the pivotal role that the parliament plays between the state and society, the representation rises and falls from State to Society and its function, to use a modern language, is to provide feedback (Jouanjan, 2016 pp. 41-42).

Conclusion

The constitutional change of 2015 transformed the presidential dictatorship into the imposing will of the political majority. The transformation from a semi-presidential system of governance into parliamentary democracy remained uncompleted, there is a need to assess the role of the non-executive president and reconsider the balance of powers between the political majority and parliamentary minority with a main objective to empower the high-quality of public discourse. The downgrading of social, economic, and cultural rights by the 2015 constitutional amendments has completely changed the social nature of Armenian statehood. The recognition of social, economic, and cultural rights and the proper consideration of the theory of Justice remain of high priority. Environmental ethics along with the introduction of constitutional provisions on environmental responsibility, environmental damage as well as the precautionary approach should be at the core of the current constitution revision.

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