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BOOK REVIEW CONSTITUTIONAL STABILITY AS AN IMPORTANT PREREQUISITE FOR STABLE DEMOCRACY¹

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Рецензії

The monograph “Constitutional stability as an important prerequisite for stable democracy” is scientifically valuable research work, prepared by Associate Professor at the Department of Constitutional Law of the Yerevan State University, Vice-Rector of the Academy of Justice of Armenia, the former Senior Adviser to the President of Constitutional Court of the Republic of Armenia Anahit Manasyan.

It consists of five chapters – “Doctrine of democracy in the context of modern constitutional thought”, “Axiological characteristics of constitutional stability”, “Development of the constitution as an important prerequisite for strengthening constitutionalism”, “Axiological characteristics of constitutional identity and its role in ensuring constitutional stability”, “Constitutional justice as an essential mechanism for ensuring constitutional stability”.

The author researches the issues of the doctrine of democracy and axiological characteristics of constitutional stability.

The development of the Constitution as an important prerequisite for the strengthening of constitutionalism, the role of constitutional identity in guaranteeing of con-

stitutional stability, constitutional justice as an essential mechanism for ensuring of constitutional stability are highlighted.

First of all this monograph should be considered as a scientifically based, meaningful and being open to the discussion concerning doctrinal approaches of the essence of democracy.

The author’s concept of understanding of democracy is based on assuming it as one of the forms of governance, at which the real source of power is the people, the power belongs to the people, is implemented by the people and for the people. Herewith, democracy should not be considered as a quality, which is typical or not for a concrete society. Reflecting on the effectiveness of democratic methods of government, As. Professor Manasyan points out some negative phenomena that sometimes are being viewed in modern methods of exercising power. In particular, they include the formation of “mediocre leaders” or so called “slaves of slogans” and the syndrome of the so called “empty space”. They can take place when the power is occupied by individuals which play with public opinion or manip-

¹ Manasyan A.A. Constitutional Stability As An Important Prerequisite For Stable Democracy: monograph. Yerevan: "Hayrapet" publishing house, 2020. 256 p.

ulate it. The methods of their governing are sometimes popular and even authoritarian and only masked by the democratic ones. Such shortcomings of democracy as continuously balancing between ochlocracy and dictatorship, the impossibility of uninformed crowd to properly perceive its interests (so called irrationality) are also highlighted by the author. As a result democracy is considered by the author as a state regime within the frames of which power belongs to the people.

According to the author, several other circumstances should be taken into account. Democracy isn't a peculiarity, originally belonging to state and society, and can be reached just at a certain stage of social development. Hence, the development and strengthening of a democratic state is a continuous circle – transition from a pre-democratic social system to a democratic one and *vice versa*. For these reasons terms “democracy” and “democratization” should be perceived as synonyms.

The author concludes that existence of democracy is just in the situation when each individual feels that in the concrete social system the human being is the highest value, possibilities of his/her self-realization and self-expression are guaranteed, as well as an individual is valued.

In her research of the essence of democracy the author applies, in addition to the traditional “majoritarian theory”, the elite theory of democracy founded by Joseph Schumpeter. According to it democracy doesn't mean that people directly govern. Democracy just means that people have an opportunity to accept or reject individuals, who will govern them. An analysis of this theory allowed the author to conclude that an additional indicator of democracy is the level of professionalism of the exercise of power.

The author proposes to use the term “constitutional stability” (as more suitable for her research purposes than “stability of the Constitution”) to discuss issues of the effective application of constitutional norms in real life. From her view point

constitutions and constitutional systems “stability”, “changeability” and “development” are not mutually exclusive terms. Constitutional stability shouldn't be considered as unchangeability of constitutional regulations. The stability is the characteristic of a constitutional system, which presupposes viability and unchangeability of a Constitution (as a social agreement of basic rules of social existence) in conditions of unchangeable social relations, taking into consideration the fact that in this case we speak not about static, but dynamic stability, when the “core”, the essence of the Constitution isn't subject to thorough changes, but the Constitution itself is able to adapt to changing social relations, being their initial regulator.

The research book also proposes the analysis of the factors conditioning constitutional stability. The main criterion for its guaranteeing should be the choice of such an option of determination of constitutional norms, which will give an opportunity to find in each concrete situation a balance between underlying constitutional stability values, predictability, certainty of a constitutional system and the necessity of constitutional developments with underlying it values.

The author's approach to concepts “democracy” and “constitutional stability” is based on an awareness of the necessity for consideration not only the role and support people in formation of the state power, but also issues of independence of judicial power and interrelations between constitutional stability and politics.

As. Professor Manasyan successfully unifies approaches outlined in the scientific literature regarding the frequency of constitutional developments and their constitutionality.

The author defines the terms “constitutional stability”, “constitutional identity” and “development of the Constitution” considering academic researches not only in Armenia but also in foreign countries. In particular, the author's doctrine of con-

stitutional identity concerns individual (internal) and social (external) levels of identity and finding balance between them.

The importance of such structural part of the constitution as its preamble is analyzed concerning contemporary legal thought. The author touches upon important circumstance with regard to the issue on changeability (or unchangeability) of constitutional provisions – possibilities of amendment of constitutional preambles.

The author focuses on those issues of constitutional development that are relevant first of all in Armenia. In particular, the subject of analysis are issues of direct application of Constitution, effective combination of mechanisms of direct and indirect democracies, solution of disputes

between constitutional bodies with regard to their constitutional authorities, development of Constitutional Court legal positions, adequate mechanisms of interaction and cooperation the branches of power. But investigation of abovementioned issues goes beyond the purely national jurisprudence and legal researches.

In conclusion it should be mentioned that the monograph “Constitutional Stability As An Important Prerequisite For Stable Democracy” by Anahit Manasyan will be welcome by a wide target audience, including scholars, academic researchers, students, Ph.D.students mainly in the sphere of jurisprudence, as well as to anyone interested in current issues of constitutional law.