

REASSESSING ARMENIA'S CONSTITUTIONAL ALIGNMENT WITH INTERNATIONAL NORMS

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Constitutional Dilemmas in International Context

The Armenian constitution stands at a crossroads, caught between historical aspirations and international legal standards. This document explores how specific provisions within Armenia's constitution may be at odds with the norms and principles upheld by the myriad of international organizations of which it is a member. The analysis delves into the complexities of Armenia's constitutional references to its Declaration of Independence and the consequential implications for regional and global peace. These constitutional elements not only pose questions about Armenia's commitment to international law but also bring to light the potential conflicts with global legal frameworks such as the UN Charter and the OSCE Helsinki Final Act. As Armenia navigates its path on the international stage, the friction between its nationalistic aspirations and its international obligations could result in significant diplomatic, legal, and geopolitical challenges.

Incompatibility with International Legal Norms

The Armenian constitution contains articles that potentially clash with international law. Specific provisions may contradict the principles upheld by international organizations to which Armenia belongs. This misalignment raises questions about Armenia's commitment to global legal standards.

Armenia's membership in numerous international organizations, including the United Nations (UN), Council of Europe, Organization for Security and Co-operation in Europe (OSCE), Collective Security Treaty Organization (CSTO), Commonwealth of Independent States (CIS), Eurasian Economic Union (EAEU), World Trade Organization (WTO), International Monetary Fund (IMF), World Bank, and Asian Development Bank (ADB), raises concerns about the compatibility of its constitution with international norms.

The constitutions references to the Declaration of Independence and the implied territorial claims against Azerbaijan and Türkiye contradict with the goals and principles of these organizations. For instance, the UN Charter prohibits (Article 2(4)) the threat or use of force against the territorial integrity of any state, a principle potentially violated by Armenias constitutional references [1].

Similarly, the OSCE Helsinki Final Act emphasizes the inviolability of frontiers, a principle contravened by the constitutional implications for territorial claims [2]. The Council of Europe, which promotes democracy, human rights, and the rule of law, might also see these territorial claims as inconsistent with its goals. Even in organizations like the CSTO and CIS, which are more aligned with Russian interests and promote regional stability and cooperation, Armenia's constitutional claims could destabilize regional relations.

While these constitutional elements may not lead to immediate suspension or punishment from these organizations, they could result in diplomatic pressure to amend the constitution, warnings or statements of concern, potential obstacles in peace negotiations, and reduced credibility in international forums. The situation, although not directly comparable to Russias actions in Ukraine, showcases how constitutional elements could be perceived as a potential threat to regional stability and peace [3].

International organizations might encourage Armenia to revise its constitution to remove references to territorial claims and the union with Nagorno-Karabakh, as these elements can cause instability, particularly in relations with Azerbaijan and Türkiye [4]. Such revisions could be seen as necessary steps towards achieving lasting peace and stability in the South Caucasus region.

Impact on Regional Stability

Armenia's constitutional framework may exacerbate tensions with neighboring countries. Certain nationalistic elements embedded in the constitution could foster an environment conducive to conflict. This situation undermines regional peace and could lead to escalated confrontations.

The Armenian Constitution, several elements could potentially incite regional conflict. First, the preamble references the 1990 Declaration of Independence, which in turn cites the 1989 decision on the "Reunification of the Armenian SSR and the Mountainous Region of Karabakh" [5]. This implies a territorial claim to Nagorno-Karabakh, internationally recognized as part of Azerbaijan, and is viewed by Azerbaijan as a potential source of conflict [6].

Additionally, the Declaration of Independence, referenced in the Constitution, contains language that could be construed as making territorial claims on neighboring countries. It refers to "Western Armenia", which is a part of modern-day Türkiye, potentially signifying a claim on Turkish territory. In practice, Armenia does not recognize both borders. It also mentions the "Reunification of the Armenian SSR and the Mountainous Region of

Karabakh", implying a claim on Nagorno-Karabakh. Furthermore, Article 11 of the Declaration, indirectly referenced in the Constitution, supports the "recognition of the 1915 Genocide in Ottoman Turkey and Western Armenia". This stance has historically been a source of tension between Armenia and Türkiye [7].

The Declaration also establishes a right of return for the Armenian diaspora [8], which, depending on its implementation, could lead to demographic changes that might provoke tension with neighboring countries. This concentration of power could potentially foster more assertive policies in regional disputes. Azerbaijan's President Ilham Aliyev has specifically called for Armenia to amend its constitution to eliminate these references as a precondition for a peace agreement [9].

There are ongoing discussions in Armenia about potentially revising the constitution to address some of these issues, though this remains a contentious topic within Armenian politics [10].

Future Risks

If unchanged, the Armenian constitution might perpetuate instability. The ongoing legal and political stance could lead to further regional conflicts and global tensions. This poses a risk to international peace efforts and diplomatic relations.

Armenia has been diversifying its arms suppliers, moving away from its traditional reliance on Russian weapons and now acquiring arms from France and India. This strategic shift occurred after Russia's perceived failure to defend Armenia during the Azerbaijani attacks in September 2022 [11].

Armenia's defense budget has seen a substantial increase, growing from $785 million in 2020 to an estimated $1.4 billion by 2024. Recent acquisitions include 24 Bastion armored vehicles from France, with 26 more expected, GM 200 radars, and night vision devices from France. Additionally, Armenia has received Swathi radars, Pinaka rocket launchers, and anti-tank weapons from India, as well as MArG 155 self-propelled howitzers [12].

The Armenian Constitution's preamble references the 1990 Declaration of Independence, which cites the 1989 decision on the "Reunification of the Armenian SSR and the Mountainous Region of Karabakh," viewed by Azerbaijan as a territorial claim. Azerbaijani President Ilham Aliyev has consistently demanded changes to Armenia's constitution, arguing that peace is "impossible" without such reforms. This combination of Armenia's constitutional claims and its recent military buildup has escalated regional stability concerns [13].

Potential risks include fears of an arms race between Armenia and Azerbaijan, which could undermine US-backed peace talks and trigger a new conflict. Azerbaijan has expressed concerns, stating it "cannot sit idly by" while Armenia is armed by countries like France and India, heightening the risk of escalation. The ongoing tensions and military buildup

could transform the region into a potential flashpoint [14].

These issues, coupled with the constitutional disputes, may obstruct peace negotiations between Armenia and Azerbaijan. Moreover, the situation could draw in regional powers and complicate international relations, as highlighted by Iran's warnings about the involvement of outside powers in the region [15].

While Armenia's military buildup can be viewed as a response to its defeat in the 2020 war, the combination of increased armaments and unresolved constitutional issues presents significant risks for regional stability. The situation demands careful diplomatic handling to prevent further escalation and to promote lasting peace in the South Caucasus.

Need for Constitutional Reform

Several aspects of the current Armenian constitution may not align with the requirements of a modern state in today's world. First, the constitution's preamble references the 1990 Declaration of Independence, which includes a 1989 decision on reunification with Nagorno-Karabakh, perceived as making territorial claims on internationally recognized Azerbaijani territory, thus fueling tensions and conflicts with neighboring countries [16].

Additionally, the constitution contains references to historical events and aspirations that may not reflect Armenia's current geopolitical situation or its goals for regional peace and stability. Furthermore, the constitution may lack the flexibility needed to adapt to rapidly changing geopolitical and regional realities, and its current form could hinder Armenia's efforts to strengthen its international legitimacy as a legal, democratic state within its internationally recognized borders [17].

Certain elements, particularly those related to Nagorno-Karabakh, are viewed as obstacles to normalizing relations with Azerbaijan and achieving lasting peace in the region [18]. Discussions are ongoing about changing certain symbols and emblems referenced in the constitution that may be problematic in the current context [19].

Finally, the constitution may not fully reflect the vision of the current government to transition from a "Historical Armenia" mindset to a more contemporary "Real Armenia" approach. Prime Minister Pashinyan has advocated for a new constitution to address these issues and better align Armenia's fundamental law with current realities and future aspirations, although he has set the time line for it to the year 2027, which does not augur well for an early solution for the peace process [20].

Picture: Azernews

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