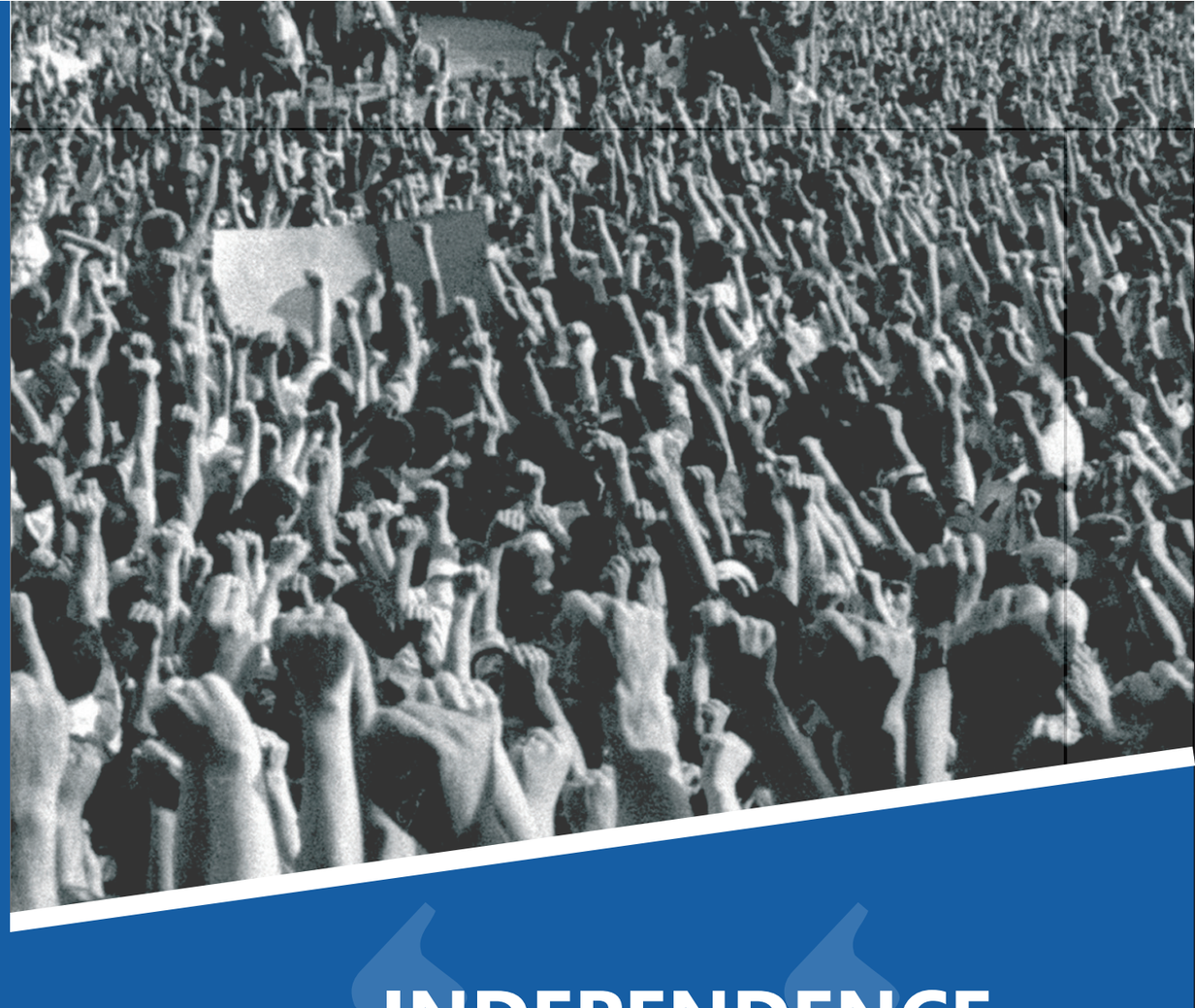


INDEPENDENCE OF THE REPUBLIC OF ARMENIA AND LIBERAL REFORMS

FRIEDRICH NAUMANN FOUNDATION For Freedom.
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Antares
Yerevan
2021



FRIEDRICH NAUMANN
FOUNDATION For Freedom.
South Caucasus

The views and opinions expressed in this book do not necessarily reflect the position of the Friedrich Naumann Foundation for Freedom and its employees.

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INDEPENDENCE OF THE REPUBLIC OF ARMENIA AND LIBERAL REFORMS

INTRODUCTION



ARAM MANUKYAN
Deputy (Member) of the RA Supreme Council, 1990-1995
Member of the RA National Assembly, 1995-1999, 2012-2017

This compendium comprises a number of articles on the political and socio economic reforms implemented in Armenia in the '90s. The majority were authored by the officials or political actors who implemented or administered these processes.

This book is dedicated to the 30th anniversary of the establishment of the Supreme Council and adoption of the Declaration of Independence of Armenia; it is a special tribute to those whose efforts led to the realization of the historical process of liberalization. A tribute to the First President of the Republic of Armenia (RA), the Chairman of the RA Supreme Council (SC), the SC deputies (members), the Government, the Armenian National Movement Party, the political forces, the civil groups – to all those who stood firm in their pledge to the fulfilment of reforms and laid the foundation for independent statehood.

I express my gratitude to all the authors of the articles contained herein, and those who supported the creation of this compilation, as well as to the Friedrich Naumann Foundation for Freedom – for welcoming the idea of creating this book and organizing its publication.

THE LEGAL AND POLITICAL BASIS OF THE REFORMS

The establishment of Armenia's independence, the factual reality of free elections, and victory in war are all historical facts. However, the start of the modern history of the Republic of Armenia, its struggle against the communist authoritarian regime, and the beginning of the fight for the

liberation of the Armenian people is, actually, February of 1988, which is the borderline of times. In the introduction of Levon Ter-Petrossyan's book "The Comeback" published in 2009, historian Ashot Sargsyan writes: "Conspiratorial coups, which can be staged by groups of 10; armed or velvet revolutions performed by hundreds; or national liberation wars waged by thousands, can temporarily change the course of a nation's history one way or another. Whereas, in practice, it is national movements encompassing the entire population that not only change the course of history, but charge it with enormous vitality, galvanizing the nation, infusing people with its rejuvenating essence, forging a qualitatively new society that is prevented from aging or decay".

The Karabagh Democratic Movement of 1988-1990 was such by nature, which made it possible to struggle against a mighty empire, solve national problems, create sovereign statehood and make a transition to a new democratic social structure, with a new economic system based on market economy and private property. Were it not for the support of the people, it would have been impossible to bring to life the far-reaching and sweeping liberal reforms executed by the authorities of that time, who achieved them by overcoming incredible hardships.

Popular consent for reforms was granted to the "Karabagh" Committee in 1988 in Liberty Square. On August 19, during the subsequent rally, the political program of the Armenian National Movement was proclaimed, stating its ideological principles, desired outcomes and the course of action the Movement would take. It was the first published document which laid out the program for - and the necessity of - democratization, the independence of the Republic of Armenia and the reforms. The first point of the ideological principles of the program states: "It is an undeniable fact that living in a free democratic society, devoid of external pressures, and determining the nature of their political, economic, social and cultural life on their own, Armenians, like any other nation, can display their talents at their best and contribute to the development of world civilization. It is also evident that only in such circumstances it is possible to retain the individual rights entitled to every person by birth, of which the inalienable ones are the right to secure life, individual freedom and craving for happiness". As for the sphere of economy, the goal set was to secure the economic independence of the Republic through self-running economic calculation and self-financing. This program of the Movement was a historic one in respect of its political

and philosophical provisions. It was an unsurpassed document of Armenian political thought produced in the last few centuries, which served as a basis for the Declaration of Independence of the RA, the RA Constitution and for the democratic reforms to come.

On November 4, 1989 the founding congress of the Armenian National Movement (ANM) started its work with the primary goal being "to restore national statehood, and to have an independent state which will proceed without any external pressure". In the section "Ideological Principles" of the program the political and economic basis of independent statehood were clearly determined. The economic program implied complete political independence, and the creation of a liberal economy based on market relations. The program stipulated free enterprise and liberal principles concerning the handover of the land to farmers, as well as various types of ownership. The creation of a liberal market economy stood out as the major conceptual provision of the political force. Later, the role of the market economy was further elaborated in the ANM program: "The cornerstone of the RA economic system should constitute market economy and social wealth. It implies legal equality guaranteed for all and every type of ownership, equal protection by law and free competition. In the transition process to market economy the major instrument is mass privatization, which can secure the privatization of not only the means of production but also the denationalization of the management and control mechanisms."

The ANM was the instigator and implementer of the concepts of political freedoms and liberal economy in modern Armenia. During the independence years the ANM constantly established contacts, and cooperated with international liberal entities and parties. In 2004 the party became an associative member of the Alliance of the European Liberals and Democrats, and in 2010 the party was the first and only member of the Alliance from Armenia.

The Supreme Council of the RA

The first free, competitive and democratic elections in the Republic of Armenia were held on May 20, 1990. By the end of July, the Supreme Council of Armenia was formed, which became the constructor of the legal and legislative foundation for independence and free market economy in Armenia. The implementation of liberal reforms was, first of all, a matter

of political will. Through these elections the citizens of Armenia granted the ANM that right, and in the five-year span of its activities The Supreme Council brought to life the best part of the new economic system transition plan.

The elections to the Supreme Council were won by democratic forces. However, they did not comprise the decisive majority. The crux of the matter to face was the election of the Chairman of the Supreme Council. The main contenders were Levon Ter-Petrossian, the representative of the liberal camp, and the candidate from the communist party Vladimir Movsisyan. It was only after the fourth round of voting that the democrats recorded a win. Levon Ter-Petrossyan was elected Chairman of the Supreme Council. This choice paved the way for the adoption of the next policy document - the Declaration of Independence. The Supreme Council was formed by the following five functioning factions – the Armenian National Movement (ANM), Armenian Democratic Liberal Party (ADLP), Armenian Revolutionary Federation (ARF), Agrarian Democratic Party of Armenia (ADPA) and Communist Party of Armenia (CPA). Apart from these factions, there were also five parliamentary groups, which were later supplemented by seven more. Seventeen permanent committees were set up in the SC, several of which directly dealt with the establishment and management of the legal framework of liberal reforms, in particular, “The Standing Committee on Establishment of Independent Statehood”, “The Standing Committee on Economic Independence and Development”, and “The Standing Committee on Agrarian and Rural Development”. People had delegated mostly famous intellectuals, scientists, renowned political and public figures. Fifty-five delegates were doctors of science and academicians. Around 60 delegates were lawyers and economists. Twelve delegates of the first Council had served different lengths of sentence in Soviet prisons for their independent and liberal ideas.

The Declaration of Independence

The Declaration of Independence adopted on August 23, 1990 became the pre-constitutional document; the milestone and guideline on which the subsequent processes of political system and free market economy reforms, the regulating laws and decisions rested. It also streamlined the activities of the Supreme Council and the Government

before the adoption of the Constitution in 1995. The Declaration of Independence is a historic document of utmost importance marking the end of the era of the communist dictatorial rule executed exclusively by the elite of one party. The Declaration gave impetus to the process of elimination of the harsh and restricted Soviet inheritance, and ascertained that the national wealth of the Republic of Armenia – its land, its mineral wealth, air space, water and other natural resources, its economic, intellectual and cultural potential, was its peoples' property. The forms of ownership of the national wealth, its use and management were stipulated by the Law of the Republic of Armenia. Henceforth, the Republic of Armenia had its legal share of the national wealth of the USSR, including certain resources of gold, diamonds and foreign currency funds.

Point 8 of the Declaration of Independence specifying the forthcoming changes in the economic system of the country states: "The Republic of Armenia determines the principles and regulation of its economic system, creates its own currency, national bank, finance-loan system, tax and custom services, based on the system of multiple forms of property ownership". The 70-year-old socialist system of planned economy was stripped of its monopoly.

Point 9 of the Declaration devised reforms of political institutes to be implemented: "On its territory, the Republic of Armenia guarantees freedom of speech, press, and conscience; separation of legislative, executive, and judicial powers; a multi-party system; equality of political parties under the law; depolitization of law enforcement bodies and armed forces."

The Declaration summarized the main political programmatic provisions and goals of the preceding national liberation movement, the "Karabagh" Committee and the ANM, and paved the way to the political and economic liberalization of Armenia. The unanimous adoption of the document, which was the result of long discussions and compromises among all political parties represented in the Supreme Council, made it possible to view the Declaration as a binding act of the highest expression of authority, and implement it as a guideline for the legislative activities in the years to come. That unanimity was pivotal for the difficult process of reform-making that lay ahead.

The progress of reform-making, its legal basis and outcomes

In the span of five years the Supreme Council made 1,211 decisions, passed 188 acts, 104 of which were imperative laws, and ratified 151 international treaties.

Around a third of the enacted laws referred to liberal economic reforms. "The Land Code" (29/01/1991), "The Customs Code" (27/08/1993), "The Subsoil Code" (19/03/1992), "The Water Code" (23/03/1992) and other codes were given statutory force during that period. The following laws became the founding statutes for private ownership and market economy in the country: "On the Principles of Independent Statehood" (25/09/1991), "On State Property of the Republic of Armenia" (10/09/1990), "On Property in the RA" (31/10/1990), "On Peasant and Collective Peasant Farms" (21/02/1991), "The Decision of the Supreme Council of the Republic of Armenia on the Principles of Privatization" (13/02/1991), "On Enterprises and Entrepreneurship" (14/03/1992), "On Privatization and Denationalization of State-Owned Enterprises, Unfinished Construction Objects" (27/08/1992), "On Private Entrepreneurs" (27/12/1993), "On Privatization of the RA State and Public Housing Fund" (29/06/1993), "On Individual (Family) Entrepreneurship" (13/06/1994), "On Commodity Exchanges" (27/09/1993).

After the RA Declaration of Independence, the most radical act was "The Act on the RA State Property", which stipulated that:

- the property of all state enterprises, unions, institutions and organizations on the territory of the RA is the property of the Republic of Armenia.
- the ownership, the implementation and management of the property of the Republic of Armenia is executed by the RA Council of Ministers.

In 1990 the Law "On the RA Property" was passed, the purpose of which was to secure the legal basis for the establishment and development of market relations, and the consolidation and development of various forms of relations between the economic system and ownership. The law authorized the property rights of Armenia, held under its protection the rights of the proprietors to own, use and manage their property at their own discretion.

It should be taken into account that these laws were passed within the period when the Soviet Union still existed and continued to function until

the end of the following year. That is, the historic value of these laws was also conditioned by the time factor.

In January and February of the year 1991 the Supreme Council passed two acts that formed the core and basis of Armenian liberal reforms. These were the law "On Peasant and Collective Peasant Farms" and the "Land Code", that marked the start of the greatest reforms process in our history – the handover of the land to its cultivator's ownership, the acquisition of property rights for land and the protection of land ownership by law. It was the greatest achievement of our independence movement, which started on February 20, 1991 and was accomplished within the following two years.

The next move was the decision of the Supreme Council on "The Basics of the RA Property", which was submitted to the Supreme Council by the Council of Ministers. According to that ground-breaking document, "privatization in the RA is the transition of state property to its citizens, groups of citizens, as well as to non-state juridical persons via sale, partial compensation or as a gratuity. In public economy privatization is a complex measure aimed at radical reduction of the role of the state economy. Privatization of the state property is implemented:

- to enhance citizens' freedoms (economic freedom included) and entrepreneurial opportunities,
- to establish a market economy'.

The principal provisions incorporated the privatization process, its standards and forms, as well as the subjects and objects of privatization. It was quite logical that alongside the institute of private ownership, its protective legal mechanisms were to be created, and on June 4, 1991 the Supreme Council passed the law "On Administrative Offences and Amendments to the Criminal Code". The purpose of these changes was to safeguard the right to ownership from infringements. According to the new alterations, the administrative and criminal liability in this field was made even more severe, thus guaranteeing the protection of the reform process.

On September 25, 1991, four days after the Independence Referendum, the Supreme Council of the RA passed the constitutional law on "The Principles of Independent Statehood", which was considered an imperative, principal law until adoption of the Constitution in 1995. According to that law:

- all the property and entities under the former jurisdiction of the Union and Union-Republican institutions on the territory of Armenia are hitherto considered to be the property of Armenia,
- the right for property and the equal status of all the forms of property are acknowledged and protected by law of the Republic of Armenia,
- the Republic of Armenia encourages free entrepreneurship and creates conditions for its development.

On August 22, 1992 the next comprehensive law on transition to a market economy was passed "On Privatization and Denationalization of State Enterprises and Unfinished Construction Objects", which stipulated legal relations in the course of the privatization process, provided the list of the objects to be privatized, and determined the forms, regulations and terms to be implemented. The law specified the privatization and denationalization plan, which was to be accomplished by issuing ownership certificates. It is noteworthy that 20% of the book value of the property of a state enterprise was subject to gratuitous privatization by the enterprise staff.

A privatization and denationalization multi-party committee of 20 was set up. Due to this act 630,000 property owners were granted the property right. From 1994 to 1999 around 1,000 enterprises were privatized. The next step was the privatization of the state and public housing fund of the Republic of Armenia. It began in 1993, and, according to the adopted law, on a voluntary basis, the apartments, buildings and basements of citizens of Armenia were granted to them free of charge. Thus, around 500,000 families became apartment owners with all the rights ensured. Now they could manage their apartments - even sell them - a thing which was unheard of before.

The following step was granting around 2,000 art studios gratuitously to arts and culture people and artists.

The completion stage of liberal reforms and political and legal regulations concerning the transition to a market economy, or the first landing spot, is considered to be July 5, 1995. On this day the people of Armenia, through a referendum, ratified the Constitution draft developed by the committee chosen by the Supreme Council, Article 8 of which once and for all sealed the newly established economic system in the Republic of Armenia. Article 8 acknowledged and secured the right for property: "The Owner owns, uses and manages his/her property at his/her own

will. The execution of the property right should not harm the surrounding environment or breach the rights and legal interests of other people, public or state. The State guarantees the free development of all forms of ownership and their equal legal protection, freedom of business activities and free economic competition".

The establishment of the institution of ownership in the 1990s completely changed the "map" of property owners in Armenia. About 550,000 people became land owners.

Around 5,000 small enterprises – hairdresser's shops, stores, booth stands/kiosks, studios were sold to the staff of the enterprises or private people, giving the priority to the working staff.

In total 1,250 medium and large enterprises were privatized. In 1991 alone, 300 small enterprises were privatized. By the end of 1991 the ratio of goods produced from privatized lands surpassed 65% of the total agricultural produce. By the end of 1992 there were 240,000 peasant farms in Armenia. In 1990 the private sector comprised about 10% of the GDP, whereas in 1994 it already amounted to more than half of it. At the end of 1995 almost all agricultural produce, about 95-98%, came from the private sector. Ten years after the reforms in Armenia there were already 330,000 peasant farms and 57,000 private entrepreneurs.

The establishment of the institution of private ownership enhanced the military efficiency of the Armenian army and helped to record victories. Land privatization and agricultural reforms were the first in line among the union republics, and life has proven that it had salvaged us from the danger of imminent hunger during the blockade of Armenia. Among the CIS countries Armenia was the first that in the conditions of the above-mentioned hardships not only averted economic downfall, but also managed to provide steady economic growth and, parallel to that, was considered to be an islet of democracy. At this point I would like to call your attention to a quote from Levon Ter-Petrossian's speech delivered on December 23, 1995 at the 7th Congress of ANM: "From the perspective of assessing the economic situation in Armenia in the period of 1990-1995, we should clearly distinguish the following three stages, which are distinctly different from each other:

1. The stage of the decline of the economy, which covers the period from January 1990 till November 1993, i.e., till the collapse of

the Soviet Union as an economic system, that was marked with the depletion of the common ruble zone and the introduction of national currency.

2. The stage of stabilization of the economy, which stretched from November 1993 till December 1994, when owing exceptionally to the internal resources of the Republic and the humanitarian aid, was it possible to halt the further downfall of the economy, to moderate the inflation and stabilize the Armenian dram.
3. The phase of the economic growth: since December 1994, based on the program of reconstruction of the macroeconomic balance and the creation of prerequisites for the development of the economy worked out by the Government of Armenia and the International Monetary Fund.

Nevertheless, there are several simple and widely acknowledged indicators which can render the actual picture of the real state of things. Suffice it to refer to some of them.

- The RA budget revenues in 1993 were USD 44 million, in 1994 – USD 94 million, while in 1995 they were USD 216 million, which meant that the revenue part of the budget had grown 4.9 times within three years. In 1993 the budget tax revenues made up USD 23 million, while in 1994 and 1995 they amounted to USD 66 million and USD 134 million respectively, adding up by around 5.9 times in only three years.
- The average nominal salary of 1993 comprised USD 7.5 dollars (in the budgetary section USD 6.1, in the extra-budgetary section – USD 8.3), in 1994 it was USD 6.0 (in the budgetary section USD 3.0, in the extra-budgetary section – USD 8.0), while in 1995 it reached USD 15.6 (in the budgetary section USD 8.9, in the extra-budgetary section – USD 19.2).
- In December 1993 the inflation, as compared to the December of the previous year, comprised 3,727% (i.e., 37.27), in 1994 – 1,884.5% (around 19 times). Within the same period the consumer prices rose for about 110.19 and 1.2 times respectively.
- The exchange rate of the dram against the US dollar within the period of November 1993 – May 1994 was reduced by 22 times, during the following months of 1994 it fluctuated around 350 drams, while throughout 1995 it maintained its value almost unchanged (405-406 drams).

- Another eloquent figure to sum it up: in 1995 more oil was imported to Armenia than in the previous three years taken together.

On February 26, 1991, the RA Supreme Council passed a law "On Non-Governmental-Political Organizations of Armenia", which put an end to the one-party political system, and created opportunities for multi-partyism and equality among parties. The parties withdrew from institutions and enterprises, from the system of education, military units, and became territorial structures; the law enforcement system was depoliticized. More than 80 political parties were formed in the RA. There were representatives of 18 public-political organizations in the first Parliament – an indicator unsurpassed in all subsequent parliaments.

Due to the adoption of this law, 2,300 non-governmental organizations were registered in the next 10 years, becoming an important component of Armenia's democratization. The NGOs covered all the spheres of the Republic: from charity to ecology, from law to international relations, from education and culture to various services.

The law "On the Freedom of Conscience and on Religious Organizations" adopted in June 1991, allowed to liberalize this sphere; as a result, 65 religious organizations were registered at the Ministry of Justice. Dozens of churches and monasteries were turned over to the Armenian Apostolic Church, more than a hundred of them became functional. The Armenian Evangelical, Catholic, Orthodox churches officially started their operation; the Blue Mosque was handed over to the Islamic Republic of Iran, a Synagogue as well as other churches and places of worship were opened.

The next radical reform concerned the freedom of expression. On October 8, 1991, the law "On the Press and Other Media Products" was passed; during the years that followed more than 100 printed press periodicals started to be published in Armenia, dozens of radio stations and TV channels were created. By way of comparison, the following is worth noting: in Soviet Armenia two TV channels and one radio station were operating, and a limited number of newspapers were published.

Following the adoption of the RA Constitution in 1995, creation of the new judicial system, police, prosecution service, investigative bodies began in compliance with the Constitution and the principles of a democratic state, which were to ensure the protection and exercise

of the fundamental human rights and freedoms. An adversarial three-tier judicial system was established; the constitutional justice started to be dispensed by the Constitutional Court, the system of checks and balances was introduced, the Cassation Court was endowed with the law development power, which created serious prerequisites for new legal relationships and updated legislative framework.

Immediately upon gaining independence, the RA applied to international organizations for membership, as well as to various countries of the world for establishment of diplomatic relations with them. In one year's time, Armenia became a member of dozens of international institutions, established diplomatic relations with 60 states of the world, and joined the most significant conventions and international law agreements. As a result, Armenia was considered to be an islet of democracy in the South Caucasus.

With the adoption of the Constitution the stage of the creation of the legal foundation was over. However, the processes were still in progress.

The political base of the reforms

During the first years of independence reforms were implemented simultaneously along two parallel fronts. The first one was the establishment of democratic institutions – parties, the public sector, the judicial system, freedom of speech, freedom of conscience, and the second one was the reforms related to the transfer to a market economy – privatization and denationalization, creation of independent banking and fiscal or tax budget systems. The reforms were of systemic and all-embracing nature. They were not only political or economic reforms, but also comprehensive societal reforms. For the implementation of each law passed the government made considerable numbers of decisions and guidelines. To ensure such volume of work it was necessary to have a political frontline, the key actors of which were the Supreme Council and the Government, and, starting from October 1991, it was the Presidential staff and the political team of ANM. Very often the initiator of the reforms was the government, and their main author was Hrant Bagratyan. Before the submission to the Assembly the bills and decisions of the government underwent thorough and vigorous discussions in the ANM Board, then were elaborated and refined, only

after which they were ready to be tabled. In this way the political base of the reforms was secured. Before the start of parliamentary discussions, the delegates were better informed of the documents being discussed and got prepared accordingly.

The political debates were hot and transparent, the arguments were controversial, and while reading the articles, the readers could see for themselves how the approval of any resolution was far from being easy. Divergence of views and opinions was also an inseparable part of the discussions. However, the adopted decisions were upheld and accepted by all, and everyone embarked upon their application. This was the guarantee and the course of the implementation of reforms.

Reform difficulties

The review of the importance of the reforms would be incomplete if they were not looked at within the framework of the challenges and difficulties of the given period. Those were:

- The consequences of the disastrous earthquake in Spitak – 25,000 casualties, 530,000 homeless people, thousands of disabled, and the demolition of about a third of the economic and production facilities.
- Around 300,000 refugees from Azerbaijan, who were homeless, and their arrival added to the number of unemployed in Armenia, bringing it to more than 800,000.
- The imposed war that lasted till May 1994 cost the nation thousands of casualties and wounded, and created enormous expenses that were used for the “needs” of war.
- A total and long-term blockade, during which it simply seemed impossible to bring to life any reforms. The gas pipeline supplying Armenia was blown up 42 times within the time span 1992-1995, and the railroad running through the territory of Georgia was wrecked 21 times. Because of the blockade, the prices of goods reaching Armenia were 25-30% higher.
- Endless and incessant difficulties inflicted by the USSR central authorities, the dissemination of misinformation and ongoing provocations.
- Inner forces fighting against independence and liberalization, who were doing their best to abort the process. It was “due to” them, that

the years of victories and reforms were eventually coined as “years of cold and darkness”.

- Armenia was to build its own independent economy in the circumstances when 95% of the economy’s external cooperation was with the USSR – the highest among the union republics.
- Because of hyperinflation the population’s savings were devalued. Consumer spending was reduced tenfold. The monthly income per capita had reached USD 5 dollars only.
- As compared to 1990 indicators, in 1993 the national income decreased by 55-60%. During the year of transfer to the national currency – the dram, consumer prices went up by 50%.
- The number of unemployed and emigrants grew.
- The citizens, who were mostly used to the economic and political system running for 70 years, had psychological difficulties in the perception of new changes and the situation they found themselves in, which was occasionally a source of grievance and discontent.
- If the experience of other countries, in respect of political reforms (the party system, freedom of speech and conscience, etc.) were easy to implement in Armenia, the above-mentioned economic circumstances and Armenia’s extraordinary conditions put the progress of successful reforms under risk.

The international response

In the post-Soviet space Armenia was a pioneer in the liberalization process with regard to the speed of its reforms, their coverage, organization and transparency. An indication of the appraisal of Armenia’s democratization processes and the reforms leading to the liberalization of its economy was also the admittance of Armenia to international structures, and cooperation and project implementations with not only those structures, but with different states as well. By the end of 1991, 48 countries had recognized the independence of Armenia and had established diplomatic relations with her.

- In December 1991 Armenia became a member of the Commonwealth of Independent States (CIS),
- In June 1992 Armenia became a founding member of the Organization of the Black Sea Economic Cooperation,

- In January 1992 it became a member of the Organization for Security and Co-operation in Europe,
- In March 1992 it became a member of the United Nations Organization,
- In 1992 Armenia became a member of the International Monetary Fund and World Bank,
- In 1993 it became a member of the TRACECA international program, World Intellectual Property Organization and International Development Association.

The assessment of the reform processes undergoing in Armenia was also made in the messages of the presidents, public and political figures of different countries sent to president Levon Ter-Petrossian at various times. Several of them are quoted below.

- "By supporting you, the Armenian people stood up for the course of revival and reforms for the sake of freedom, democratization and prosperity".

Boris Yeltsin,
President of RF, 1996

- "Modern history of Armenia is closely connected with the name of Ter-Petrossian. We refer to both - the infamous collapse of the communist totalitarian regime, and the constitutionally asserted democratization process by means of establishing new republican institutions in the society, and consistently implementing the land reform".

Valentin Oskotsky,
literary critic, publicist, 1997

- "You will be remembered for the economic reformation of Armenia and for the long-lasting contribution promoting the welfare of all Armenians".

Bill Clinton,
US president, 1998

- “Levon did for the language of politics what Mesrop Mashtots had done for spoken Armenian… In the accounts of the international liberal political life, he will be remembered as a brave fighter for liberal values. And I have no doubt that for his compatriots he is and will remain a source of liberal inspiration”.

Graham Watson,
President of the Alliance of Liberals and Democrats
for Europe Party (ALDE), 2019

THE INDEPENDENCE PARLIAMENT



BABKEN ARARKTSYAN
First Vice Chairman of the RA Supreme Council, 1990-1991
Chairman of the RA Supreme Council, 1991-1995
Chairman of the RA National Assembly, 1995-1998

…There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. Because the innovator has enemies in all those who have done well under the old conditions, and lukewarm defenders in all those who may do well under the new.

Machiavelli

Independent statehood – the centuries-old dream of the Armenian people – is a reality now. Our generation witnessed the birth and maturing of the Republic of Armenia which, as a subject of international law, accessed United Nations membership and became a full-fledged international cooperation entity. The first Parliament of the Republic of Armenia directly embarked upon construction and establishment of the Armenian state. Following the riddance of the communist ideological shroud expounded in the relevant article of the USSR Constitution, and in accordance with the legislation inherited from the past, a parliamentary system was established in Armenia.

The Supreme Council, the founding Parliament of the independent Republic of Armenia, was formed in 1990; within the existing pseudo-electoral system a real possibility for elections was provided. In Armenia, still a Soviet Republic at the time, the Supreme Council elections were organized in compliance with the USSR and Armenian SSR Constitutions, and the Law of the ASSR Supreme Council on Elections. However, the elections of May 20 and June 3, 1990 (held in two rounds of a majoritarian voting system) drastically differed from all the elections held under the Soviet rule; an entirely new situation had evolved in Armenia

within the preceding two years, since a newly formed, non-conventional political force – the Armenian National Movement – participated in the elections with its relevant program and own candidates. The Karabagh Movement that started in Armenia in February 1988, gradually grew into a democratic movement by the efforts of the "Karabagh" Committee, and, since 1989, of the Armenian National Movement, setting as its target the creation of national independent statehood and settlement of the Karabagh issue. In spite of the efforts taken by the Communist elite and diverse pressures exercised by the common center, the Armenian citizens amidst the vortex of political developments gave their votes to the representatives of the democratic forces in numerous territorial electoral precincts in these elections held amid the national upsurge conditions. The elections resulted in the establishment of a parliament that was utterly new in terms of its composition, reflecting the prevailing aspirations within society, although in many aspects it was still a Soviet institution, since Armenia continued to be part of the USSR and the Soviet legislation was in effect. However, this very parliament, still in the days of the USSR, embraced the mission of laying the legal and political foundation of Armenia as an independent state.

The new Parliament with its 260 MPs started functioning on July 20. Since the very first days it took the challenge of creating the new statehood through active and complex struggle, and introduced the general democratic reforms. These were first of all realized in the Parliament itself. Initially in the "Provisional Rules of Procedure" (11/08/1990), then (08/07/1991) also in the Supreme Council's Rules of Procedure new mechanisms were provided to ensure the MPs' unhindered expression of their standpoints, and, in particular – formation of party factions and MP groups. Additional rights were defined for such factions and groups, which created appropriate conditions for their effective work. Thus, from the outset a multi-party system and freedom of expression were ensured, to foster development of the domestic political framework and formation of new parties in the Republic. It should be noted that mainly the ANM and the Communist Party representatives, as well as the so-called independent parliamentarians were elected to the Parliament. A section of the MPs gradually accessed membership to various parties; the first Parliament's 142 members were represented by 18 socio-political organizations that were mainly formed in the course of the parliament's functioning. "Artsakh", "National Democrats", "Free Parliamentarians",

"National Progress", "Liberal Democrats", ARF parliamentary groups, and the ANM, the Communist Party of Armenia factions, had seats in the Parliament. Throughout the years of the parliament's activities a total of 12 parliamentarian groups and five political factions were represented. The first parliamentary groups – "Call of Artsakh' (since 1992 – "Artsakh") and "Nationalist" (which existed till March 1991), were formed on September 17, 1990, in December the "Republic" group was formed (and functioned till the formation of the ANM faction). Further on the following parliamentarian groups were formed: "Communist" (March 1991, terminated with no announcement), "Independent Democrats" (July 1991-March 1993), "National Democrats' (November 1991), "Free Parliamentarians" (June 1992-September 1994, but re-registered a week later with a change in composition), "Agrarian" (June 1992-October 1992), "Accord" (February 1992, terminated with no announcement), "Liberal Democrats" (September 1994), "National Progress" (November 1994), and ARF (January 1995).

Concurrently with changing the legislation, starting from 1992, the following political groups were formed in the Parliament: Armenian National Movement (ANM, February 1992), Armenian Democratic Liberal Party (ADLP, March 1992), Armenian Revolutionary Federation (ARF March 1992), Agrarian Democratic Party of Armenia (ADPA, October 1992), Communist Party of Armenia (CPA, March 1993), of which ADLP (November 1994) and ADPA (June 1993) dissolved because of their members leaving the party or joining other parliamentarian factions and groups. The ARF faction existed till January 1995, when by a decision of the Supreme Court of the Republic the activities of this party were temporarily suspended and the ARF faction turned into a parliamentarian group.

Radical changes were introduced related to the organization of parliamentarian activities. Previously the Supreme Council's sessions in the Armenian parliamentarian country were convened twice, sometimes three times a year, for a few days, the leadership of the SC was in a permanently functional mode, and the SC Chairmanship was granted extensive power and authority. Understandably, such a formal parliament functioning on the basis of procedures and principles stated above would not be able to solve the essential issues it faced, so the Parliament decided to perform its duties on at least partially professional basis, because the current legislation did not exclude

combining parliamentary work with other activities, and some of the MPs were reluctant to quit their jobs. Sixteen standing committees were established in the Parliament, with more than a hundred MPs involved. The Parliament developed into a permanently operating institution, able to carry out the constitutionally stipulated functions of a highest body of state power.

On August 4, 1990, resulting from a number of votings that followed a clash of principles between the two main forces represented in the Parliament, the Communist Party of Armenia and the Armenian National Movement, Levon Ter-Petrossian, Chairman of the ANM Board, was elected President of the Supreme Council. This, indeed, was a turning point that opened a new, non-communist page in the history of Armenia. The election of the ANM representative as the President of the Supreme Council unequivocally predefined the path adopted by the Parliament. One of the first crucial documents adopted by the Parliament was a constitutional law – the "Declaration of Independence of Armenia" (August 23, 1990), which proclaimed "the launch of the independent state establishment process." The Declaration abolished the socio-political system based on communist ideology, defined the main principles of the state and public order: separation of powers, equality of property rights, freedoms of expression, press and conscience, political pluralism, multi-party system and equality of parties, depoliticization of armed forces and law enforcement bodies. Noteworthy, too, is that in spite of the fact that only 72 (11 delegates elected from Artsakh) out of the ANM united candidate list became MPs in the first two rounds of the elections, which was less than the number of nominated and elected candidates from the Communist Party of Armenia, after the election of the ANM candidate Levon Ter-Petrossian as the SC President, the political direction of a new force, the ANM, became decisive in the parliament. This could be best proved by adoption of the "Declaration of Independence of Armenia", formulated on the basis of the ANM's manifesto provisions. The Declaration was adopted by the votes of the overwhelming majority of MPs that participated in the voting.

The Declaration, adopted in such an unprecedented atmosphere of unity, was, indeed, of fundamental importance; many of its provisions were in contradiction with the current Soviet Constitution, in fact omitting the latter's corresponding articles. Not only did the Declaration assert its overarching principle of establishing an independent state, but

also laid the basis and paved the way for new public relations, radical political, economic and legal reforms, and establishment of democracy. The Declaration unequivocally demonstrated the Supreme Council's determination to persist in forming a national state and exclude the possibility of the communist system reinstatement.

According to the Declaration, the Supreme Council decided to rename the Armenian SSR to the Republic of Armenia, and to consider the Supreme Council of the 12th convocation to be the Supreme Council of the Republic of Armenia of the first convocation (24/08/1990).

The Declaration served as a basis for creating both the national legislation and the new Constitution. Since the existing Constitution was in contradiction with the principles of the Declaration, the Parliament had to constantly make constitutional changes and amendments. To overcome the legislative deadlock, the Parliament adopted the first constitutional law – "On Legislative Acts Adopted in Compliance with the Declaration of Independence of Armenia" (10/12/1990), according to which the action of the constitutional provisions contrary to the laws adopted on the basis of the Declaration was suspended until the adoption of the new Constitution. Undoubtedly, these changes undermined the integrity and inner logic of the Soviet constitution, as the latter in a legally clear way corresponded to the totalitarian needs, giving the Communist Party unlimited opportunities for power abuse. It was obvious that with changes only, even radical ones, creation of the new Constitution would not be possible. Hence, a constitutional commission was formed (15/11/1990), which was to assume the responsibility of drafting the new Constitution.

Pursuing the policy of statehood establishment and its strengthening, the Parliament issued an announcement (16/01/1991) regarding the January 16, 1991 decision of the USSR Supreme Council "On measures in support of organizing and holding a referendum on the issue of preservation of the USSR", wherein it clearly formulated its negative attitude towards holding the USSR referendum, then in the following announcement (30/01/1991) it expressed its opinion about the referendum on the preservation of the USSR being unprepared, and holding of it unacceptable, emphasizing that such a referendum would obstruct the fulfillment of the republics' and autonomous entities' right to self-determination. In pursuance of the policy of establishing independent statehood, the Supreme Council of the Republic of Armenia decided not

to hold the USSR referendum in the territory of the Republic of Armenia (01/03/1991). At the same time, in compliance with the USSR legislation, the decision "On holding a referendum in the territory of the Republic of Armenia on secession from the USSR" was adopted.

On September 21, 1991, a referendum was held in the territory of the Republic of Armenia on the following question: "Do you agree that the Republic of Armenia should be an independent democratic state outside the USSR structure?" Out of 2,056,758 citizens who participated in the referendum, 2,042,627 (94.39%) said "Yes" to Armenia's independence. The Supreme Council, based on the results of the RA referendum, declared the Republic of Armenia an independent state (23/09/1991). The day of the referendum, September 21, was announced to be a holiday by the decision of the Supreme Council (24/09/1991). It should also be stated that Armenia was the only Soviet republic that seceded from the USSR exclusively in compliance with the existing Constitution and laws.

Upon declaring Armenia an independent state and especially after the collapse of the USSR, Armenia entered a new stage of development – a period of statehood strengthening, reinforcing the traditions of democracy, in which the Supreme Council's role was significant.

Abiding by the provisions of the Declaration of Independence on the separation of legislative, executive and judicial powers and the need for modernization and development of the political system of the Republic of Armenia, the Supreme Council established the post of the President of Armenia (25/06/1991). The Supreme Council, in accordance with the current Constitution, concentrated all power in its hands, but in the highest interest of having a more efficient state, established a system of presidential government, relinquishing part of its powers to the latter. In accordance with the Law "On the President of the Republic of Armenia", the President heads the executive branch of power, and the Council exercises the legislative power. Such a separation of powers was stipulated by the constitutional Law "On Fundamental Principles of Independent Statehood" (25/09/1991) and the Law "On the Supreme Council of the Republic of Armenia" (19/11/1991). In fulfillment of the already existing new legislation, on October 16, 1991 Ter-Petrossian was elected as the first President of the Republic of Armenia.

From the first days of its inception, the Parliament focused on the issues of democratization and protection of human rights. In conformity

with the principles specified in the Declaration of Independence, the Parliament passed numerous laws and decisions which made it possible not only to contend the one-party system, but also to succeed in establishing a multi-party system, ensure the equality of parties, and create real preconditions for freedom of press and expression. In this regard, the decision of the Supreme Council of the Republic of Armenia "On depoliticization of state agencies and state enterprises, institutions, organizations, educational institutions and military units" (05/11/1990) should be mentioned; it prohibited the principle of forming party cells, replacing it with the territorial principle. This decision was primarily aimed at the establishment of a multi-party system, ensuring equality of parties, eliminating the political monopoly of the Communist Party, which actually had a branched network in all organizations and institutions. Based on this decision all parties were granted the same status and, consequently, enjoyed equality.

In due course the Parliament adopted a number of other legislative acts in this area, such as the Law "On Socio-Political Organizations" (26/02/1991), which legally established a multi-party system and equality of parties, and the Law "On Press and Other Mass Media" (8/10/1991), the Law "On Freedom of Conscience and Religious Organizations" (17/06/1991), etc.

Concomitantly, by the decisions of the Parliament, Armenia joined the UN Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to it, and many other international conventions and agreements. The humanitarian stance towards the citizens of the Republic has been repeatedly confirmed by numerous acts adopted by the Supreme Council, which have solved many issues related to the sustenance of the Republic and the specific categories of citizens. During its tenure the Supreme Council twice (1990 and 1992) adopted a law on amnesty.

In each and every case the Parliament carefully considered and, with political determination displayed, issued decisions to mitigate all kinds of tensions in the country, to alleviate crisis situations, and to prevent further tensions. In particular, this was the case in August 1990, when certain armed groups threatened to destabilize the situation. To prevent further exacerbation, a state of emergency was declared throughout the country, which greatly contributed to the stabilization of the situation and prevented potential armed clashes.

During its activities the Parliament directly and constantly dealt with the issues of radical transformations of the Republic's economy and the establishment of civilized market relations. The Declaration of Independence had already stipulated the basic principles of these transformations and economic reforms; then numerous specific laws and decisions regulating the radically new legal relations in the economic sphere of the Republic were adopted. Among those the Law "On Property" (31/10/1991) is worth mentioning, which identified the principles of legality and equality of all forms of ownership, inheritance of property and other principles. The Law "On Peasant and Collective Peasant Farms' (22/01/1991) and the "Land Code of the Republic of Armenia" (29/01/1991) were crucial in the development of new economic relations in rural areas and the development of agrarian reforms. In accordance with these laws, the land was handed over to peasants as their property; at the same time it became possible to create collective farms on a voluntary basis, as opposed to forced collectivization. The SC MPs took an active part in local realization of the initiative.

Denationalization and privatization were considered to be of utmost importance in the implementation of economic reforms. The Parliament regularly tackled this issue, discussed it thoroughly and adopted relevant laws and decisions from the beginning of 1991 (the first in this series was the Law "On Principles of Privatization in the Republic of Armenia" (February 13, 1991). The Parliament gradually expanded and further developed the rationale of privatization, greatly contributing to its implementation. In particular, the Law "On Privatization of the State and Public Housing Fund in the Republic of Armenia" (June 10, 1993) entitled citizens to acquire ownership of the state housing fund free of charge. Subsequently, the Parliament, building on its previously gained experience, adopted a number of other laws and established a standing state commission on privatization. The process of privatization and denationalization was greatly stimulated by the Law "On Privatization and Denationalization of State-Owned Enterprises and Unfinished Construction Objects" (27/08/92) and the amendments to that law in 1993 and 1994. With that law, in fact, a new stage of state-designed privatization and denationalization began. As stipulated in the law, all the citizens of Armenia were given privatization certificates in accordance with the established procedure, and 20% of the property of state enterprises

were privatized free of charge to the employees of the corresponding enterprise.

The Parliament repeatedly dealt with the issues of private entrepreneurship development, fiscal, financial and lending policies, and the principles of the banking system development.

The Parliament made an exceptional commitment regarding the introduction of a national currency in the country. In October 1993, based on the RA SC's Resolution, the RA State Interagency Commission on the Regulation of Money Circulation was established to develop and implement complex measures aimed at regulating currency turnover. The commission was responsible for making situational decisions and implementing the function of putting the national currency into circulation.

Starting from November 27, 1993, the Armenian national currency – dram – became the only legal tender in the entire territories of both Armenia and Nagorno Karabagh.

Prior to that, through cooperation within the framework of the law on membership in the International Monetary Fund and World Bank Group (28/04/1992), the laws "On the Central Bank of the Republic of Armenia", "On Banks and Banking Activities" (March 30, 1993), and formation of the Central Bank's governing bodies the foundation was laid for the creation and development of the modern financial and, in particular, banking system of the Republic of Armenia.

Ways to overcome the economic crisis during the blockade, reconstruction of the disaster zone, accommodation of the deportees and many other issues were repeatedly and thoroughly discussed during parliamentary debates and hearings.

It should be noted that the MPs of the first Parliament, most of whom were highly esteemed in Armenia, did take an active part in various processes unfolding in Armenia. From the very first day of the Parliament's activities they enthusiastically participated in the reformation of the country, closely cooperated with the representatives of the executive authorities both in the spheres of agrarian reforms (in particular, organization of land privatization) and privatization of enterprises, formation of territorial administrations, as well as resolution of various burning issues and conflicts related to the vital interests of the population throughout the country.

The Parliament actively contacted parliaments of other countries. Initially, these connections were random, but gradually they became

much closer and more regular. These ties not only helped to avail of the experience in organizing various parliamentary activities, but also greatly contributed to the deepening of interstate relations. From 1992, inter-parliamentary relations were formed with numerous foreign parliaments; inter-parliamentary cooperation agreements were signed with the parliaments of several countries in the following years: Georgia (19/05/1993), Lebanon (21/12/1993), Syria (24/12/1993), Russia (10/06/1994), France (09/03/1995) and Ukraine (17/03/1995).

Moreover, in order to expand the inter-parliamentary ties, "Armenia-France", "Armenia-Great Britain", "Armenia-Canada", "Armenia-Australia", "Armenia-Iran", "Armenia-Lebanon", "Armenia-Germany" parliamentary groups were created in the parliament to cooperate with the parliaments of other countries, and peer groups functioned in these countries as well.

The delegations of the Armenian parliament played an active part in the activities of a number of international parliamentary organizations. In particular, Armenia became a full member of the Inter-Parliamentary Union, an international organization established in 1889 to unite various parliaments around the world.

Our delegation officially participated in the work of the Organization for Security and Cooperation in Europe, and continued the process of accession to the Council of Europe. The Parliament of the Republic of Armenia was a founding member of the Parliamentary Assemblies of the CIS and the Black Sea Economic Cooperation, and actively contributed to increasing the effectiveness of their work. Specifically, in June 1995 the Speaker of the Armenian parliament became the Chairman of the Parliamentary Assembly of the Black Sea Economic Cooperation.

The newly established parliament had a permanent commitment to supporting the fair struggle of Nagorno Karabagh's people, since the settlement of the Karabagh issue signified remediation of the Armenian people's violated rights. The leadership of the USSR and the CPSU drove the attempts to solve this issue to a dead end, thus endangering the very existence of Nagorno Karabagh's population. With direct participation of the USSR armed forces and MIA's special subdivisions Azerbaijan's districts densely populated by Armenians were entirely cleared of their residents. Understandably, the Armenian parliament could not stay out of this matter and, naturally, did protect and assist Nagorno Karabagh, consistently and permanently applying all possible measures towards

that end. Hence, it was not by chance, of course, that a special committee for Artsakh issues was formed in the SC (13/08/1990), alongside other standing committees. Its main objective was to keep the parliament informed about the events taking place in Artsakh, and submit relevant draft decisions and recommendations. In view of the events evolving in Artsakh, the Supreme Council always took the required and appropriate measures, including; corresponding discussions held in the Parliament, representatives from various levels of the SC participated in bilateral and multilateral negotiations, and all the necessary diplomatic steps were taken. In 1993, on the initiative of the RA delegation, the CIS Inter-parliamentary Assembly created a peacemaking group for the NKR issue, headed by the Speaker of Kirgizstan's Parliament. The region, including Nagorno Karabagh, was visited several times by the members of this group.

On May 5, 1994, on the initiative of the group and the CIS Inter-parliamentary Assembly, the Bishkek Protocol was signed, which led to cessation of the war and a ceasefire. The ceasefire became operative on May 12, 1994. The Bishkek Protocol was signed by the residents of Nagorno Karabagh, Armenia, Russia, Kirgizstan, as well as by the representative of the Russian Federation's President, and the Secretary General of the CIS Inter-parliamentary Assembly.

Here are some figures to form an idea about the scope of work done by the Supreme Council of the Republic of Armenia: 459 plenary sittings (including 37 extraordinary ones) were held during 10 sessions; the Supreme Council adopted 188 bills, made 1,211 decisions, and ratified 151 international treaties and agreements.

The Supreme Council of the Republic of Armenia as the first parliament of the newly independent Armenian state has had an exceptional historic mission in the establishment of Armenian statehood. The Supreme Council's aim was to ensure the required legal framework for the establishment and existence of the State, to radically reconstruct almost all the realms vital for the Republic – the economic, financial, social, educational and cultural spheres, the judicial system and the law enforcement agencies, the national army, foreign policy, ecology, tax and customs services, etc., that is, absolutely all the areas of the country's life. In fact, the Parliament with its decisions and laws gradually succeeded in making necessary changes in all the main spheres, as well as creating such structures that had never even existed before.

The work of the Supreme Council of the first convocation aimed at elaboration of the new Constitution of the Republic of Armenia was extremely important. In 1993, the Constitutional Commission of the Supreme Council initiated the development of the first draft of the RA Constitution. Drafts were also submitted by several parties. Following the nationwide discussions and those held in the Supreme Council (1994), the expanded team of the Constitutional Commission (which included representatives from the parties represented in the Supreme Council), co-chaired by L. Ter-Petrossian, President of Armenia, and B. Araktsyan, Chairman of the SC, developed a new, reformed version. In compliance with the RA constitutional law (27/03/1995), after being approved by the Supreme Council, it was put to a referendum.

On July 5, 1995 citizens of the Republic of Armenia stated their decisive "Yes" to the RA Constitution during the referendum, and it became the main roadmap for our country's political development.

Now, looking back at the entire functioning process of the founding parliament of the Independent Republic of Armenia, it becomes quite obvious that despite the difficult military, political and economic conditions, the RA Supreme Council fulfilled its historical mission, laid the foundations of statehood, created real conditions for statehood and its further development and sustainability.

Starting its work with the Declaration of Independence and concluding it with the adoption of the first national referendum-based Constitution in the history of Armenia, the SC became the main center for the State's formation and development, and succeeded in establishing the required state institutions within a relatively short period of time. It is hardly disputable that the first Parliament - the Supreme Council of the Republic of Armenia – was the best in the row of legislative bodies in our contemporary history, based on the opinion spread across - and currently dominating - our society.

The Republic of Armenia became a full subject of the international community in the status of an independent state by admission to membership in the United Nations (02/03/1992), and our tricolor soared in front of the UN headquarters.

HOW TO REFLECT ON INDEPENDENCE?

GERARD J. LIBARIDIAN
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First Deputy Foreign Minister of the RA, 1993-1994
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The struggle of thinking

Three decades after the proclamation of the Third Republic of Armenia, a historian can retrospectively ask: "What were the most important changes of this period?" After all, the essence of history is to see, assess, evaluate the changes and place them in a wider context.

The reader can answer this question very quickly and mention some very clear phenomena: the Karabagh Movement and conflict, then - war, independence, the process of establishing democracy and market relations, as well as internal political upheavals.

And that would be the right answer. However, it would not be a complete one.

There are changes in history that are not so visible and tangible, because they have no dates, no significant events, no anniversaries, and no monuments. But, without them, visible events would hardly have occurred.

These changes pertain to such turns in thinking as political mindset, the influence of which is sometimes deeper than the regime upheavals qualified as revolutions. When the suppositions of dominant thinking are questioned, which were accepted as innate truths, which are so indisputable that they do not even need to be formulated, suppositions that are eventually rejected, setting aside that dominant thinking – there comes revolution.

What happened in Armenia, imperceptibly started in the 1970s, matured in the 1980s as a major novelty in political thinking, reflected in

the rapid developments created by the Karabagh Movement, was nothing but a change equal to a revolution.

The essence of the change was in the simple answer to a seemingly simple question.

“Could Armenia be an independent state?”

The answer, which had been “No” before, became “Yes”. Not only that, but, in fact, Armenia did become an independent state.

Thus, the source of that revolutionary thinking was the Karabagh Committee, which grew into the Armenian National Movement party and demonstrated the courage and responsibility for translating the new thinking into politics and gaining that independence.

* * *

Can Armenia be an independent state?

The issue of having or being deprived of statehood is one of the main axes of our people’s history and historiography. When we had statehood, the main problems people faced were more solvable, and our historiography accepted that structure as an axis. In the absence of statehood, our people faced much more serious dangers, and our historians had difficulty writing a narrative. In such times, which in the case of Armenia itself cover almost the entire second millennium, different classes of our people thought about and sometimes even took steps toward the creation of statehood.

The issue continued to torment Armenian political thought even during the few years of the First Republic’s formation. At that time, the Sovietization of the Republic of Armenia gave the answer to that question, which was “No”. That is, some features and structures of the First Republic remained, but independence did not endure. The way of governing Armenia, the principles and attributes of economic and cultural development, the degree of autonomy, and the foreign and defense policies were wholly defined elsewhere.

So, the question was left with the following formulation: Can Armenia gain a strategic and political opportunity to be able to establish itself as a sovereign state, to define and manage its vital interests, or will it continue to maintain its mandate of existence as a state dependent on imperial power in compensation for protection promised by the latter?

For several decades following Sovietization, the ideas of freedom and independent statehood in the domestic politics of Armenia were preserved in a part of the Diaspora, among the Armenian Revolutionary Federation party and its supporters. However, starting from the 1970s, that party, like other parties in the Diaspora, adopted Soviet Armenia as an acceptable form of statehood, limiting the goal of gaining independence and freedom to dream slogans.

So, the problem was not only the fact that a foreign, stronger state took away our independence and freedom, but also in our political parties' standpoint. Communists in Soviet Armenia, and Dashnaktsutyun, Hunchakians and Ramkavars in the Diaspora not only accepted the lack of freedom and independence as a fact, but also as a positive option. As for the Armenian political thought, if it is possible to give that qualification to such a phenomenon, it renounced these two rights, imagining the situation as a compromise option. According to that version, the relinquishment of the rights to freedom and independence was necessary in order to gain the protection of the Turkish imperial state, which, according to this idea, was ready to exterminate the people of Armenia, if Armenia would not obey Russia and became an independent state.

This fear is the basis of the negative attitude towards independence in its simplified, but not primitive formulation.

Caused by a series of massacres and the Genocide perpetrated in the 20th Century, reinforced by the image of the savage Turk, nourished by the perpetual ghost of Pan-Turkism, inspired by psychology of a victim and colonized people, skillfully practiced by Armenia's self-proclaimed advocates, this fear actually distorted the perception of national interests.

The problem is that this fear was confused with the overarching strategic principle.

The Genocide, its manipulation and Turkey's rejection of it paralyzed the collective spirit of the Armenian people. Our entire history and all potentials were trampled when our past was defined by the Genocide. A nation cannot imagine an independent future if its only vision of the future is the prospect of becoming a victim again. The policy was based on the fear of genocide and the possibility of suspended independence. All of this was presented as realistic and vigilant thinking. Those parties did everything possible to define any alternative beyond that "thinking" as adventurism, if not treason.

The problem is not that there was no genocide, or that different scenarios should not have been considered. The problem was that those people did not want to contemplate other scenarios. As for the reason why they made this emperor-inspired concession ours, as a concession corresponding to our interests, is another subject of discussion. Here I can only mention that seemingly the domination of the Genocide over our thinking as past or future without the present has also brought about the victim's psychology as a dominant political culture. Then, a victim does not take part in making history; a victim's only role is to be killed. According to that paradigm, only the Turkish victimizer and the foreign "savior" have a role in shaping our history. The advantage of such historiography is that the victim does not take any responsibility for what he did and did not do, what he said or did not say.

The national democratic movement of Armenia challenged the validity of the criterion based on fear, questioned the fatalistic role attributed to Pan-Turkism, reaffirmed the right to set a national agenda, and rational discourse was re-established as a way of discussing issues, replacing indisputable fear.

In 1989, after the debates in the Supreme Soviet of Soviet Armenia, the Armenian National Movement (ANM) gave a number of very clear answers to these questions. If Armenia nourishes a hope to become a viable, independent state, it must overcome traditional thinking. This provision contradicted the perception adopted by Armenian political thought. The Communist Party of Armenia, with the ARF's strong support, opposed the independence process, citing the immediate and inevitable threat of genocide. The instinctive opposition to the Armenian National Movement and to Levon Ter-Petrossian, both during their rule in the political life of Armenia and after their departure from power, is directly related to the position adopted by them on this key issue. The essence of the question was clear: what should the Armenian political thinking be based on, what should be implied while answering the question of independence: uncriticized fear, or rational discourse and discussion?

Attention should be paid to another aspect of the ANM thinking. Our political thought, especially that of the Diaspora, was pushing forward a huge paradox. On the one hand, people were claiming that the fear of Turkey was so immediate and inevitable that it was necessary to voluntarily renounce independence and freedom. On the other hand,

these same people were constantly wielding swords against Turkey, demanding lands and money, and cursing: it was not clear who they meant as an ally to do all of this for them. Such a paradox could be continued only if the connection between political thinking and action is not perceived, when they do not feel responsible for what they said and did, or when we do not take ourselves or what we say seriously.

The new way of thinking grounded our policy in reality, responsibility and seriousness.

In the late 1980s, the USSR, of which Armenia was a part, was close to exploding, but no government in the world expected, and only a few anticipated it. The USSR was still a superpower, and all the decisions, strategies, calculations were made with the knowledge that it would continue to exist. The First Secretary of the USSR Communist Party, the de facto leader of the country Mikhail Gorbachev had "opened" the Soviet society with his "Glasnost" (some degree of political publicity) and "Perestroika' (limited economic reconstruction), that were the last efforts to preserve the USSR as a socialist system and an empire. Even if people, especially in the West, did not want to see it, Gorbachev knew very well that the system was economically and politically bankrupt.

In the year following independence, political life in Armenia was saturated with parties that represented the full range of the political spectrum, from extreme right to extreme left. But the political battles during L. Ter-Petrossian's administration developed in their own peculiar way, especially when independence was already a fait accompli and the battle lines were redrawn. In essence, what emerged were two fundamentally different and opposing camps.

L. Ter-Petrossian and the Armenian National Movement (ANM) represented the core of the first wing and defended the following worldview. It was necessary to overcome the tormented past as a determinant of the future, to give a scientific assessment to the Genocide, to bring Armenia and the Armenian people to a normal state, to avoid ideological restraints, and to take a pragmatic path. This group united a number of politicians and groups who had certain disagreements related to some issues with the ANM and L. Ter-Petrossian, but, in my opinion, they shared the same basic convictions.

The second wing led by Vazgen Manukyan, the National Democratic Union (NDU), the Armenian Revolutionary Federation (ARF), the Communist Party of Armenia (CPA), and the Democratic Party of Armenia

(DPA), each with its own unique way, glorified the "national ideology", which was attributing to Armenia and the Armenian people the role of a "higher" idea, ideal, mission, or saw the newly created statehood only as a means for the vision of creation of an "Armenia from Sea to Sea". The people of this wing assigned a predetermined role to the Armenian state and its people rather than ensuring the dignified existence of the same people.

These two conflicting and increasingly opposing views of the place Armenia and the Armenians occupied on the globe obscured any normal debate. A raging struggle was unleashed for the spirit of Armenia. The approach of the second wing ideologists was based on intolerance and personal hatred towards the heretic who embodied the absence of "national ideology" and whose name was Levon Ter-Petrossian.

Levon Ter-Petrossian and the ANM

For Ter-Petrossian and the Armenian National Movement, the goal of statehood was for the citizens of Armenia to be able to define their state interests, problems, and the strategy of achieving security. Statehood was a mechanism through which the people of the given country secure their rightful place in the international community. In a way they set their own issues, define their national interests, and pursue them in a manner convenient to them. The goals of the government are to ensure the security of the country and the people, to guarantee the conditions that lead to political, economic and social welfare of its citizens, and to overcome the problems that threaten or endanger these goals.

The transformation of society and ensuring the welfare of the people takes time; they are best guaranteed when they are carried out with prudence. No revolution, ideology or regime can create instant economic development or efficiently functioning structures. Ideological zeal cannot replace time, vigorous nationalism cannot replace prudence. The goal of independence was to give the people of Armenia the opportunity to feel and act as normal nations do.

This thinking had yet another component. Independence was necessary not only to get rid of the sovereignty of another state and to assume the right to define or pursue one's own interests, but also to be able to change the unfree, one-party, monopolized form of governance imposed by that ruling state. By this logic, democracy would be inextricably

linked to the idea of independence: something that was not so basic in the thinking of other political forces.

L. Ter-Petrossian and the Armenian National Movement sought the guarantee of Armenia's independence in a balanced foreign policy, and maximal security in regular relations with all neighbors.

The normalization of relations with Turkey was part of this pragmatic foreign policy and a precondition for the stabilization of the people's lives. But how to accomplish such a task with a neighbor, if it is true that the neighbor was going to destroy your people at the first opportunity? Here Ter-Petrossian and the Armenian National Movement showed a subtler and more accurate understanding of the meaning of the Genocide and its role in our policies. For political forces opposed to independence and viewing it through the lens of fear of a new and inevitable genocide, massacring and killing were innate features for the Turks and the Turkish state, regardless of the environment and conditions. Such hypotheses were accepted and indisputable truths for those political forces. In case of a serious discussion, the whole structure of political thinking could collapse.

But Ter-Petrossian and his associates were viewing the Genocide as a historical and cultural phenomenon that was the result of historically explicable circumstances; they were explaining that linking it to a nation's nature was unscientific and would only serve to inhibit the desire for independence among Armenians. And to the extent of the danger that may still exist, it can be reduced by embarking on establishment of diplomatic and wide-ranging relations, but also by ensuring a mutual defense agreement with Russia.

These discussions were present on the basis of the revolution of thinking. Without the correct interpretation of history and vigilant thinking, the Movement would hardly have been able to achieve independence, overcome fear, and turn anxiety into a solvable problem at the state level.

There was the issue of Nagorno Karabagh at the first stage of national awakening. For the Armenian National Movement, the essence of the Karabagh issue was to ensure the security and collective rights of the people of Karabagh. In 1988, these rights were pursued through the goal of unification with Armenia. In 1992, this goal was adapted to the post-Soviet realities. Regardless of how unique and substantial, Karabagh was one of Armenia's problems. Neither its essence nor the solution strategy

could be defined or pursued separately from the realities of Armenia. L. Ter-Petrossian believed that an economically, socially and politically weak and diplomatically isolated Armenia would not be apt for protecting the territory of Karabagh or its people.

For the Armenian National Movement and L. Ter-Petrossian, the Karabagh war was imposed on Karabagh and Armenia and it had to be won because no Armenian government could allow a new genocide or displacement. However, once their security was guaranteed, the conflict had to be resolved to allow Armenia and Karabagh to return to a normal state.

Accordingly, the Karabagh war was a defensive war, not an aggressive one. Armenia was not looking for territorial supplement at all. The Karabagh issue should have been resolved within the framework of international law and on the basis of Karabagh's vital interests, not on the basis of formal or symbolic advantages.

L. Ter-Petrossian considered the role of the peace treaty crucial in terms of creating a political, economic and social basis for reforms and strengthening independence. To this end, he was ready to accept a solution securing NK's status based on mutual compromise from the Azerbaijani and Armenian sides, which would exclude Azerbaijan's supremacy over Karabagh, provide security guarantees, including Karabagh-Armenia border regulations. The solution of the issue of the original status could and even had to be postponed. But the conflict had to end.

This was not entirely the solution that others would have wanted, but it was all that Karabagh needed. The return of territories not necessary for the security of Karabagh would be the way to reach that peace agreement. A peace treaty without a status agreement was acceptable as it, in fact, left the de facto status of Karabagh untouched, almost independent of Azerbaijan and almost united with Armenia.

Upon timely settlement of the conflict the blockade on Armenia would end, the communication channels and roads would be opened, allowing Armenia to play a role in the regional and intercontinental relations, and the grounds for the majority of foreign investors to assess Armenia as risky and insecure would be eliminated. A timely settlement of the Karabagh conflict would ensure normal relations with two of the four neighbors, Azerbaijan and Turkey, and ease tensions between the other two neighbors, Georgia and Iran, as well as the rest of the international community.

The question of the State's relations with Armenians living abroad remained. Was the Armenian state an ordinary state that belonged to its citizens, or was it the "home" of all Armenians, regardless of where an Armenian lives or what country he is a citizen of? Is the Armenian government responsible for all Armenians, their dreams and aspirations? And, finally, what does it mean to be an Armenian?

According to the Armenian National Movement and L. Ter-Petrossian, the State should take the responsibility for the issues related to its interests and for the population living within its borders. The state also makes its contribution to protect the interests and needs of the Armenians of other countries within the limits of international law. In any case, Armenians living outside the country, except in the specific case of Karabagh and its inhabitants, were part of the Armenian people, although not in legal terms. Armenians are one people historically, to some extent culturally, even spiritually. But legally, Diaspora Armenians are citizens of other countries. They have the opportunity to return to the homeland, to enjoy all the benefits and assume all the responsibilities of citizenship. However, neglecting the legal differences is utopian, even dangerous. The two parts of the nation had a lot to offer each other, but the relationship had to be based on mutual respect and acceptance of differences.

This was the worldview. It does not contain a long list of achievements. The point of view presents the context through which the problems were considered and the main political decisions were made. It does not guarantee that every official will act altruistically or directly within this ideal in each case. It also does not justify the failures, personal or political, which ruined the policy, and the trust of a part of the people towards the ANM and, eventually, L. Ter-Petrossian.

However, the failures do not diminish the role of this approach in order to comprehend the path taken by Armenia under the leadership of Ter-Petrossian, and to understand the antagonism against its values and goals.

* * *

This way of thinking, on which the substantiation of an independent state is based, will shape the style and character of the country's diplomacy. The first and, perhaps, most important feature of the diplomacy of that period was the assumption of responsibility by the leadership for

independence and statehood. In other words, we create and maintain independence and statehood, regarding them our crucial goals, the success of which is a condition for ensuring the security, freedom and welfare of the people, and for solving the problems the country faces on the basis of its interests.

Armenia became one of the republics of the Soviet Union whose popular movement and the aspiration for independence fundamentally shook the foundations of that Union, taking away from it the mask of legitimacy, thus making the achievement of its independence possible.

Armenia fulfilled this peacefully and lawfully, saving the people from dangerous shocks. Through extensive diplomatic work, the country carried out the following:

- Used the means of different communities of the Diaspora for recognizing its independence;
- Opened embassies very quickly, starting with the most important countries;
- Affirmed its adherence to international treaties and conventions;
- Joined the United Nations, the Commonwealth of Independent States, the Organization for Security and Co-operation in Europe, etc., becoming a full member of the international community.
- Armenia prioritized the most important pillar of the country's security — the efforts towards establishment of regular neighborly relations with its neighbors. It succeeded quickly with Iran and Georgia. The issue of relations with Turkey and Azerbaijan was difficult to resolve. In that direction, Armenian diplomacy considered the solution of these difficult issues to be its task.
- In the case of Azerbaijan, the settlement of the Karabagh conflict became the main axis of Armenia's foreign policy. When the conflict escalated into a war, it was possible to bring the war to an end successfully in 1994, to avoid a new war, and to establish peace on the basis of mutual concessions. For that purpose, Armenia carried out realistic and energetic activities, based on its own initiatives supporting and promoting international mediation.
- History has shown that Ter-Petrossian's was the right approach.
- Armenia undertook direct negotiations to establish normal bilateral diplomatic relations with Turkey. Although that goal could not be achieved due to the Karabagh war, at least it was possible to have

peaceful relations and to make progress in some areas. In any case, no new genocide took place.

- Armenia based its relations with Russia on the principles of friendship and mutual respect, eventually signing a bilateral and long-term alliance that has become a cornerstone of the country's security.
- Armenia established multilateral and multisectoral cooperation with European countries, the European Union and the United States.

In other words, Armenia developed a balanced foreign policy geared at becoming a factor and a respected member of regional security on the one hand, and of the international community on the other. All this stemmed from that new way of thinking, which refused to use history and the pain of the people to deprive it of its right to freedom and independence; rejected the policy of dreams, illusions, and unrealistic ideologies; instead, it pursued the policy of real, immediate and future interests and opportunities of the statehood and the people, which was learned from our and other peoples' history lessons.

A last note. In the end, all the parties officially accepted independence, even denying that they had been against independence and had acted against it. However, there are those among them who have not yet accepted the political and historical responsibility necessary for the preservation of independence: the daily work, the need to think independently and resourcefully, to act, the ability to make decisions based on complex calculations. They prefer the simple, ancient, lazy, cowardly and opportunistic policy of awaiting decisions from other states for the course of our history.

It is essential to understand laziness correctly; it is not formulated here as a moral category. These people and these political forces are accustomed to giving moral lessons to the great powers, explaining their own interests to them, gossiping as mere spectators would, preaching about international law, but they are not ready for the endless daily efforts necessary for maintaining statehood and policy-making. For them, there is no need for daily discussions, maneuvering through new situations, discourse, because for them there are only states in the world loving or hating Armenia. There is no need to think about the nuances since they would require a lot of work. And what requires the most work in the ever-changing international developments is to seek and find on a daily basis how we can pursue our interests in those circumstances.

For them, therefore, in order to avoid these huge problems, it is preferable to accept the rule of a defender, handing over everything for protection and hiding behind the simplistic but also dangerous slogan of nationalism, heroism, “eternal friends and eternal enemies”. That is laziness.

Internal upheavals since the founding of independence can to some extent be attributed to this key difference between the parties.

The aim of the struggle of those who displayed only superficial devotion to the idea and reality of independence was to ultimately overthrow the above-mentioned revolution in political thinking. And they mostly managed to do so today. It was not difficult to deem independence and statehood possible, desirable and necessary and to trumpet it, but, at the same time, to speak and act on the basis of the principles that weaken that same statehood and independence: principles such as “my dream is more powerful than your reality”, “the party is of a greater value than the State”, “the nation is more valuable than the State”, “two of our four neighbors are eternal enemies”, “our hope is in foreigners”, “this Armenia is not the Armenia we want, and we must fight against it if its leaders are not committed to the idea of a Greater Armenia”, “you are anti-national, if you do not pursue supreme goals”, etc.

The louder the drums of superpatriotism, the more we will stray away from the agenda of solving the issues of this Armenia and this nation, to solve the issues of another Armenia – the imaginary, illusive, nationless one.

ARMENIAN NATIONAL MOVEMENT AS A POLITICAL STAGE OF ARMENIAN ENLIGHTENMENT

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The Thesis

The thesis at the heart of this text is that the Armenian National Movement (ANM), which came to the fore with a task to find a solution to the problem of Nagorno Karabagh, transformed into an all-encompassing political movement, which led the process of post-Soviet modernisation through critical reassessment of the traditional understanding of politics, in effect through its complete review. This criticism acquired form in the course of public debates, stipulated in explicitly formulated programmatic provisions, communicated to the broad masses and finally projected to political processes. In effect, this was a function of enlightenment performed by the ANM, thereby acting as a new stage of development of the political constituent of the Armenian enlightenment.

Reconstruction and the Movement

It is obvious that the birth of the ANM in Armenia would be impossible without Gorbachov's reconstruction launched in 1985. The movement was tabled exclusively as a national problem – the demand for the reunification of the Autonomous Region of Mountainous Karabagh with Armenia. It was perfectly in line with the general logic of Soviet Armenia's political history: researchers have recorded that the rest of the dissident movements in the lifetime of the Soviet Armenia were nationalistic, their

main goal being Armenia's independence.[1] However, compared with the former, the Karabagh Movement was not only more organised but, first and foremost, pragmatic and rational, which radically differed from the emotional and formal-legalistic approaches of the "dissident" stage. Without dwelling on the history of formation and activities of the Karabagh Movement (in particular, the "Karabagh" Committee). These are well – but unfortunately not widely – known facts, I would only like to draw attention to the nature of the Movement as a network, as well as its practices and ideological foundations.

The Movement as a Network

Even though the demonstrations of the Movement attracted the support of broad public masses, it was never reduced to the duality of "Karabagh" Committee - Masses" but relied on the broad circles of the local (regional, institutional) "Karabagh" Committees. The existing associations of greens,[2] as well as the so-called "constitutional groups"[3] joined the Movement. The structure that developed was centrifugal to the extent that it was coordinated by the central "Karabagh" Committee. At the same time it was a network, since it had autonomous local bodies and national coverage.

Democracy as a Means and a Goal

A fundamental characteristic of the Movement was the organic unity of the national and the democratic. Democracy was not imposed from above by either the ideologists of reconstruction or the western donors. Neither was it imposed on the masses as an abstract notion. From

[1] See, in particular, "Vache Sargsyan's Return," Akeghdama, an Unrepeatable Story, V. 1, Hovhannisyan Institute, Yerevan, 2019, pp. 423-425. It should also be mentioned that the national character of the Movement offended not only the Soviet leadership, but the pioneers of reconstruction (прорабы перестройки). In this sense, it is appropriate to mention the voluminous article by Russian writer Andrey Nuykin in *Литературная газета*, who was reprimanding Armenians for undermining the whole process of reconstruction by invoking their nationalistic problems. Compare the letter of the author of this text in response to the above article: Ашот Восканян, «Открытое письмо А. Нуйкину от 18/05/88», Нагорный Карабах. Информационные материалы. Специальный выпуск, Ереван, 1988. However, the approaches changed at least among the intelligentsia and the same Nuykin became the President of Russian writers supporting Karabagh.

[2] "Survival' by Hakob Sanasaryan operated from 1985 to 1989 – the Armenian Green Movement.

[3] On the basis of which in 1989 the party "Union of Constitutional Law" was founded (Chairman – Hrant Khachatryan).

the very outset it was a means to resolve national problems (in the first place, the problem of Nagorno Karabagh but also environmental, preservation of Armenian as a language and other problems) and by virtue of its practical effectiveness it was admitted by the wide layers of the society as a goal to have a democratic society.

The same is true of "human rights." The objective of the above constitutional groups was not the declaration of human rights abstractly perceived, but contributing to the solution of individual, everyday problems of citizens very often on the basis of the ASSR Constitution and other legislation.

Legalism

This conditioned the legalistic nature of the Movement, which aimed at the utilisation of the opportunities offered by the Constitution and laws of the Soviet Union, and if necessary, their transformation by peaceful means.[4] Since the governing bodies of the ASSR party and the Soviet power were not ready for such developments, it was foreseen that this would be done through peaceful mass pressure. This strategy was applied at all the stages of the Movement, of which those deserving special attention are the Decision of the Supreme Council of the ASSR on the unification with Nagorno Karabagh (15/06/1988), the entry of the members from the Movement to the Supreme Council, the activities of the constitutional groups, the *ad hoc* sitting of the ASSR SC organised in the building of Opera and Ballet upon the initiative of the Movement,[5] assuming state power via regular elections to the ASSR SC in 1990, and the constitutional exit from the USSR in 1991.

The Open, Anti-populistic Nature of the Movement

Legalism itself is a phenomenon of enlightenment, since its aim is to streamline public life by means of rationally formulated laws. However, it can also be used by political movements pursuing anti-enlightenment, populist, and sometimes even archaic goals. Therefore, it is important

[4] See the Programme of the Armenian National Movement (August 19, 1988), 30th Anniversary of the Republic of Armenia Declaration of Independence, Collection of Documents, p. 20.

[5] Was held on October 24, 1988. Was directed against the threat of imposition of a new union treaty. It was determined that the Union laws could apply in the RA territory only after their ratification by the RA SC.

to emphasize that the enlightening nature of the ANM was conditioned first and foremost by the rationality of its goals in terms of pragmatism but also denial of populism. The latter was manifested in the denial of unequivocally dominating clichés in the national mentality, and their dismantling through rational arguments.

This policy was pursued openly, and the people were fully aware of it. Not only did the leaders of the Movement not feed the demonstrating masses with purely emotional, nationalistic slogans but they did everything to exclude such slogans.[6] Emotional charge for demonstrations was ensured through chanting of verbal formulae related to Karabagh, the famous trumpet melody[7], as well as the fedayi songs widely sung in those days. The rest was classical enlightenment work consisting of rational analysis of the political situation, discussions of the to-do lists and objectives offered to the people. In difficult situations the speeches of the Committee members would transform into loud reflections when the way out was sought in the presence of the masses and jointly with them.[8] These were practices based not on the manipulation of the public masses but their education and raising their perception of the political problems.

The Ideological Foundations of the Armenian National Movement

The ideology of the Movement was crystallised on the basis of the critical reassessment and review of the negative experience of the struggle for freedom at the end of the 19th Century and beginning of the 20th Century and the First Armenian Republic. Moreover, reference here is made not only to the classics of the Armenian historic-critical thought (Leo,[9] Hovhannes Kajaznuni,[10]

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6 For example, if someone on the podium tried to incite demonstrators with any homophobic slogan (for example, “death to Turks”), he would be pulled down with an explanation that “we are not against anyone but for ourselves.”

7 It is generally acknowledged that the melody written by Artemy Ayvazyan for the film “Why the River is Noisy” became the unofficial anthem of the Movement.

8 Examples of the selfsame enlightenment tradition were the “political lectures” by Levon Ter-Petrossian during the 2008 rallies.

9 See, in particular, Leo, “The Ideology of the Turkish-Armenian Revolution,” Shaghik, Yerevan, 1994.

10 See Hovhannes Kajaznuni, “A.R. Federation has nothing else to do,” Shighik, Yerevan, 1994.

David the Anonymous[11]) but also to the self-endeavours in understanding the not-so-remote past.[12]

In order to fully perceive the singularity of the ANM approach, it is necessary to note that the "national ideology" of the Soviet Armenia,[13] at least since the commemoration of the 50th anniversary of the Armenian *Mets Yeghern,* had the face of radical hatred for Turks with its explicit, although not articulated, goal being the return of the lost Western Armenia. Since approximately those times this stance (which essentially excluded the exit of Armenians from the USSR) was encouraged by the Soviet leadership. This traditional ideology found its classical reflection in the works of the Armenian intellectuals of the '60s (Hovh. Shiraz, P. Sevak, etc.).

The ideological tenets of the ANM were formulated in opposition to these ideas. Some of them *per se* were self-evident truth, such as the slogan "there are no eternal friends or enemies but eternal interests." However, in times of the "return to politics" of 1988 they were perceived as revelations.

An extended version of the above thesis was interpreted through Ishkhanyan's formulation as "the law of exclusion of the third force',[14] purporting to be the paradigm of the external policy of the future independent Armenia and implied that the State was to regulate its relations with its neighbours by itself without relying on the interventions of "state-patrons.

The demand for the exclusion of the third force was diplomatically formulated as denunciation of the "principle of orientation." If an essential question for Armenia for centuries was "which orientation to choose," at the time the principle of "orientation" as such was questioned.[15]

With a retrospective glance at this quite rigidly formulated provision we become convinced that to a certain degree it was an impasse related to the fundamental circumstance that Armenia, in contrast to ALL the

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[11] See David the Anonymous, Societal Development of the Russian Armenians in *XIX Century (1800-1870*), v. 1-3, 1916-1926.

[12] An important role here played by the group of proponents of the questions raised by Raphael Ishkhanyan (Vazgen Manukyan, Babken Ararktsyan, etc).

[13] See below on this term.

[14] See Raphael Ishkanyan, "The Law of Exclusion of the Third Force,' Which is Our Way, Yerevan, 1990.

[15] At the level of public speaking it was manifested in the form of the struggle against "israyelorism." It should also be noted that the propensity to orientate towards this or that superpower was given a rethink by the Armenian bolsheviks, who had substituted the geopolitical orientation with the political: "The best orientation is the Soviet," Alexander Myasnikyan said.

remaining Soviet Republics, did not have a realistic possibility to acquire an alternative ally in case of distancing itself from Russia. If the Baltic states attached their future hopes with the EU, Moldova – with Romania, Azerbaijan – with Turkey, Georgians – at least with the Black Sea, Armenia was the only state that saw its independence guaranteed in equal distancing from its neighbours and reliance on exclusively its own strength.

Accordingly, there have never been any doubts regarding the necessity of having closest and friendliest relations with the big northern friend. The aim was to attain a certain degree of independence by virtue of which it would be possible to pursue the interests of the State through flexible actions.

The Destination of Independence

It is unequivocal that right from the outset the leaders of the Movement regarded Armenia's independence as the ultimate goal. However, in contrast to the "independent dissidents", and in view of the circumstances of Armenia in between the collapsing USSR and the hostile Turkey bearing the burden of the conflict of Karabagh, they chose a cautious and pragmatic way to attain their goal.[16] And this line was maintained until the very end: Armenia was the only Soviet republic that exited the USSR in full observance of the procedure prescribed by the Soviet law.[17]

The external politics of the newly-independent Armenia relying on its own forces, naturally, was in need of abandoning the unrealistic (at least at that historic phase) benchmarks and to formulate the objectives in such a way as to make them negotiable not only from the point of view of the neighbours but also the international community.

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[16] An important destination point was an article by Vazgen Manukyan "Time for Jumping out of the Train" (See "What is Our Way" collection, էջ 7-43). I have laid down my ideas about the issue in the following publication: Ashot Voskanyan, "What do We Want," Literary Gazette, 12 (2368), 16/03/1990.

[17] It was by the determination to maintain the legal aspect of the issue that the seemingly delayed declaration of independence can be explained. The referendum was appointed on March 21, 1991 and, under the USSR law, was held six months later, on September 21.

The Problem of Nagorno Karabagh as a Problem of Self-Determination

The most principal question in this regard was the reformulation of the problem of Nagorno Karabagh. The arguments referring to the "restoration of historic justice" or "the illegal decision of Stalin's Caucasus Bureau" were brushed to the second plan along with the thesis of "demands for lands from Azerbaijan" as contradicting the international norms and for that matter – dangerous. The problem of Nagorno Karabagh was reassessed as a struggle aimed at the exercise of the "right of self-determination of nations," which made it possible to present, discuss and protect the problem of Artsakh in the international fora.

The Problem of Mets Yeghern in the Context of Relations with Turkey

If harmonization of the formulation of the problem of Nagorno Karabagh with the norms of international law did not spark a lot of public resenment, the approach adopted by the ANM towards the issue of the Armenian Genocide gave rise to heated debates. The leaders of the Movement believed that no regular successful relations between the newly independent Armenia with its neighbor Turkey could be built, if the complex range of issues connected with the Armenian Genocide was included into the official agenda of the Armenian diplomacy. This position was reflected in the Declaration of Independence, in which the problem was limited to the goal of contributing to the international recognition of the Genocide.[18]

The issue became even sharper in the process of drafting of the RA Constitution in view of the fact that the refusal by President Ter-Petrossian to directly mention the Genocide in the RA Constitution sparked fierce resistance among many members of the multi-party Constitutional Commission. Accordingly, these complaints were not conditioned by purely party allegiances but clearly reflected the general public disposition. The solution found was a compromise and for that matter – enlightening. Although the Armenian Genocide was not directly mentioned in the text of the Constitution, there was a special reference to it in the RA Declaration

[18] See the Declaration of Independence, para. JA.

of Independence, which was recognised as an inextricable part of the RA Constitution.[19]

Ordinary or Global

The response of the traditional intelligentsia was equally sharp in regard to the relations between the Republic of Armenia and the Diaspora. Here too the problem had its history. At the heart was the conflict between the two leaders of the Movement – Vazgen Manukyan and Levon Ter-Petrossyan on the issue of assessment of the road taken by the Armenian people. Manukyan was inclined to consider Armenians a "global nation" in the light of how scattered we were and placing the emphasis on such a model of national self-organization, which would encompass all the segments of the Armenian people in their homeland and in the Diaspora. Ter-Petrossian, on the contrary, regarded Armenians as an "ordinary nation", emphasizing that the Republic of Armenia is an autonomous state unit, and that Diaspora must not take direct part in its politics.[20] The fact that the ideological divergence of the two leaders of the Movement had a paradigmatic significance for the whole Movement is demonstrated by its very name: the entirely Armenia-based political unit posited itself as an Armenian National Movement signifying two fundamental ambitions: it must be the movement of all Armenians and must deal with all national questions. It is obvious that this stance was "Vazgenian," and it was not accidental that it continued to remain one of the ideological pillars of the new party that he created – NDU.[21] Ter-Petrossian's thesis garnered more support and was reflected in the constitutional provision prohibiting dual citizenship (in order to protect the rights of Diasporan Armenians special passports conveying the right of permanent residence were introduced).

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[19] It is appropriate to mention that the ANM approach was quite close to the one prevailing in Soviet Armenia (although for a different reason), of which a classical reflection was the poem "Half-Road Reflections" by Silva Kapoutikyan.

[20] Here too Levon Ter-Petrossian continues the tradition coming from Charents and the Armenian bolsheviks, which was manifested in Al. Myasnikyan's famous "I am not an all-Armenian President."

[21] It is typical that when Ter-Petrossian created the civil ANC, he never renounced the word "national."

Irrespective of how persuasive this position is now,[22] it clearly reflected the anti-populist nature of the Movement, obstructing the direct effect of the traditional demand-based nationalism of the Armenian Diaspora on politics in Armenia.

National Ideology

Clearly such radical changes could not have been made without counteraction on the part of the traditional intelligentsia. The paradox was that this segment enjoying certain state care in the times of the Soviet Union,[23] which nevertheless felt pressured ideologically in view of the restrictions on the traditional Armenian "dreams", anticipated that the independent Armenia would preserve their privileges, at the same time encouraging the national propaganda made in the spirit of the "Armenian Trial." What happened in fact was the opposite. Under the circumstances of the cruel "pre-capitalist" market, the intelligentsia lost the financial support of the State and, at the same time, had to face the negative attitude of the State towards the propaganda on traditional topics. One of the forms of return to the "embraces" of the State could be the state commission for creating a comprehensive "national ideology." The same question of creation of an all-inclusive model of self-organization was raised by the parties adhering to the traditional national direction.

Under such circumstances Levon Ter-Petrossian's position on "the national ideology being a false category" could not but be met with a significant wave of discontent. Very few were ready to admit that what was meant was not a denial of the spiritual and cultural unity of the Armenian people, but exclusion of a *political* imposition, which would endanger the political pluralism within the Armenian society and under the veil of new nationalistic slogans would restore the one-party system rule of the Soviet times.

The link of the thesis of Ter-Petrossian with the fundamental tenet of modern political science that "ideology is false consciousness" was completely ignored (and is still ignored). The meaning of this thesis that

[22] We know that the ban on dual citizenship was later removed and other legal regulations were put in place to resolve the existing concerns.

[23] See Симон Кордонский, *Интеллигентность как административно-рыночный товар*, http://polit.ru/article/2004/09/07/kordon/, 25/01/2021 on the status of the intelligentsia in the USSR.

has never been challenged by any serious academic was not the denial of the *raison d'etre* of worldviews but a simple understanding that any ideology reflects the interests of this or that social group but presented as universal (in our case – pan-national) interests. In other words, what was false was not the ideological conception, but its universalist ambition.

Remaking the Political System

The transition to the presidential system, irrespective of the element of complex interpersonal relations of the leaders of the Movement, was a political necessity, conditioned by the need to overcome the difficulties of cooperation between the legislative and executive branches of power. Despite the multi-party nature of the Supreme Council elected in 1990, the political system continued the practices of the Soviet period. However, very soon it became evident that the status quo could not be maintained in the absence of the axis of the Soviet system of governance – the Communist Party of Armenia. Its strong spine – the Central Committee of the Armenian Communist Party – along with its numerous district branches coordinated and streamlined the activities of the ASSR executive and legislative bodies in all sectors. This was neither good nor bad – but a fact that remained in the past.

This was the gap to be filled by the institute of the RA President. The advantage of the "semi-presidential" (French) model was that it safeguarded a strong state power in circumstances when both the RA President and Prime Minister were from the same party, and enabled a balance between conflicting forces, if the President did not represent the majority having elected the Prime Minister. Since the presidential and parliamentary elections were being held at different points in time, if disappointed the voters had a possibility to balance the results of presidential elections with the parliamentary and vice versa.[24]

This system has proven its viability also in times of crisis, ensuring the smooth transition of power after Levon Ter-Petrossian's resignation. Its consistent dismantling started when presidential and parliamentary

[24] Omitting the political nuances, I would like to note that in those years there were both like-minded (Levon Ter-Petrossian-Hrant Bagratyan) and antagonistic (Levon-Ter-Petrossian-Robert Kocharyan) duets.

elections were held at the same time,[25] which unavoidably had the consequence of the belonging of these two high-ranking officials to the same party, transforming the Prime Minister into the economic attaché of the President. The next step was the introduction of a strict presidential system, which facilitated the transition of power to authoritarianism.

Liberal or Social

The Armenian National Movement was essentially a liberal movement in terms of the protection of human rights, including the rights to conscience, speech, press, democracy, as well as its economic policy. The practices of the first governments of the newly independent Armenia had clear parallels with the Gaidar government of the Russian Federation of those times. The operations of both were guided by the necessity to ensure smooth transition from the collapsed Soviet economy to market relations, but they were also shocking to a certain degree, since what emerged after this transition was a hybrid of decayed previous relations to "the wild capitalism," which undermined the well-being of a significant portion of the population.

It is paradoxical that the radical liberalism of the Government, dictated by the situation, was somehow in opposition with the provisions adopted in the ANM Second Congress, as well as the relevant provisions of the RA Constitution, which offered the vision of the "social market economy."[26] Nevertheless, it is unequivocal that in order to achieve social justice, the Government undertook several big steps in the direction of mass privatization. The first one was the voucher privatization of the industrial entities, which clearly did not serve its purpose. The second step was made in the agricultural sector, although it enabled the rural population to earn minimal living during difficult years of transition, it also resulted in the decay and disqualification of the existing state economic entities. The privatisation of housing was the more or less successful step, which

[25] Arguments substantiating such decisions are known and remain unchanged from country to country: they are resource-saving and avoid shocks.

[26] See the ANM programme, Yerevan, 1992, page 10 and RA Constitution, Yerevan, 1995, Art. 1. The author of these lines took direct part in the stipulation of this provision in two documents: in the first case laying down the text on the basis of the programme of GDR Christian-Democratic Party, and in the second – as a member of the Constitutional Commission when the provision of Armenia being a social state was stipulated in the unamendable article of the Constitution. However, today we have to note that the achieved theoretical agreement was not translated into concrete actions.

endowed a right to ownership to a significant number of the population and played an important role in the lives of the people.

No matter how inevitable all these difficulties were, the fact is that the difficult economic situation of a significant number of people and the increasing number of cases of corruption in the circumstances of newly formed capitalist relations, raised a sweeping wave of discontent among the society, which was not possible to mitigate even by the triumph in Artsakh war.

The "Unexpected" Results of the First Artsakh War

This text will not dwell on the topic of the Artsakh war: it is a very big, complex and sensitive issue, and it is not possible to list all the aspects thereof in one or two paragraphs. I would here dwell only on the two unexpected consequences of this war: the syndrome of the "cold and dark years" and the phenomenon of Yerkrapah (the "Land-Keepers").

It is a painful fact that for Armenia maximally straining its forces in the circumstances of involvement in war and milaterial blockade with interrupted economy, including energy connections with the post-Soviet space, the winters of 1992-1995 were especially heavy, but this was not surprising. Something else was surprising. In a victorious country the difficulties borne in times of war normally become matters of special respect and even mythification. A vivid example of this was the blockade of Leningrad, which remained in the Soviet and Russian historic annals as a symbol of suffering and death, yet, also fortitude, struggle and victory. However, the historic academics of the third Republic succeeded in portraying this time of self-assertment of a young country as "years of cold and darkness," the symbol of which was not the victorious Armenia, but some mythical "feeders on fuel oil" and the phantasmagoric electricity "ground-connections." And this syndrome has not been overcome yet.

The other unexpected result was the founding by the freedom-fighters having participated in the war of the "Yerkrapah Union" (1993), which brought to the public arena a semi-militarised power structure, which subsequently demonstrated its aspirations for political power. It is important to mention that in 1991 the public authorities succeeded in disarming and neutralising another structure (the Armenian National Army) with similar political aspirations in the period of the formation

of the army of independent Armenia and avoiding the dangerous co-existence of official and unofficial armed units. It was not possible to repeat this experience in the post-war period, nor would it be repeated due to the fact that the head of the new structure was the Minister of Defence himself. It also mattered that with blatant disregard for its earlier statements on maintaining political neutrality, Yerkrapah supported the ruling ANM during the parliamentary elections of 1995 and the presidential elections in 1996. However, as early as 1997 the leaders of Yerkrapah tabled a political programme, which was in explicit opposition with the main provisions of the ANM ideology, raising issues of the necessity of a national ideology, alliance with the Diaspora and preservation by all means of the achievement of the war in Karabagh.[27]

Turn (the Boundaries of Enlightenment)

The leaders of the Movement were certainly conscious of the changes in public dispositions, which prior to the 1995 parliamentary elections aiming to motivate the newly-emerging business segment, proposed to postpone the effect of those constitutional articles, which prohibited combining the position of an MP with other paid work. As a result, what the Movement acquired in the National Assembly was a majority that defended it but was void of any political certainty, including numerous Yerkrapahs, which at times of crisis denounced the ideological platform of the Movement.

As was expected, the crisis had to do with Levon Ter-Petrossian's programme for the resolution of the problem of Artsakh, which was externally stimulated by the OSCE Lisbon Summit in 1996. Although the Armenian delegation managed to veto the adoption of an unfavourable decision in the forum, it nevertheless became obvious that the international community was unanimous in its position, and that a radical change of this position was practically impossible.

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[27] These ideas of the Minister of Defence were not completely within the rationalistic paradigm. In September 1999 (almost a month prior to the terrorist act in the parliament) the speech delivered by Vazgen Sarsgyan to the Armenia-Diaspora Conference clearly reveals the mythical nature of his thinking (See the analysis of that speech in Ashot Voskanian, «The Staging of Politics and the "Folklorization" of Political Discourse», *Representations on the margins of New Europe. Politics and Identities in the Baltic and South Caucasian States* (ed. by T. Darieva, W. Kaschuba), Frankfurt/New York: Campus, 2007).

The internal stimulus was the economic impasse in which Armenia, blockaded by the two hostile countries, found itself.

The President's sober analysis of the inextricable link between the resolution of the problem of Karabagh based on compromise and the economic development of the country seemed "extremely rationalistic" for the broad public. At any rate, voicing this thesis during the 1996 presidential elections led to negative consequences. The principle of enlightenment has exhausted itself. It is not possible to win elections by informing the electorate that they were not going to "live well".

The trio consisting of the "well-known forces" (Vazgen Sargsyan, Robert Kocharyan and Serzh Sargsyan), refusing the proposal of the first President on the stage-by-stage solution of the problem of Nagorno Karabagh, specifically addressed the economic aspect of the problem, announcing that Armenia's economic difficulties were not the result of close borders but bad public administration, and that economic development was possible to achieve in the circumstances of unresolved conflict.[28]

The resignation of the President followed the parliamentary "turn" of Yerkrapah.

All Politics is Local

The issue of the 1998 state coup is an issue meriting a separate study. The only question that I would like to raise in this connection is the following: why did President Ter-Petrossian decide to resign? Why did he not oppose the political and military elites applying directly to the people?

My assumption is that the reasons for this were not entirely conditioned by the specifics of the perception of the problem of Nagorno Karabagh by Armenian society. The complexities of the inner life and the 1996 turbulent presidential elections created the psychological atmosphere, which rendered the public attitude to such issues quite problematic.

[28] See, in particular http://www.aniarc.am/2021/01/23/vazgen-sargsyan-press-conference-23-january-1998/?fbclid=IwAR2tKgtvFHe5nMOaN5UosjO5TmC_dygidgfn_cL56yRRrBF4yLCvh4-wG3w, visit 25/ 01/2021.

The Decay of the Enlightenment Paradigm

The resignation of the first president marked the decay of the enlightenment paradigm of Armenian politics. This happened in two stages. The criminal-oligarchic regime that emerged at the beginning of 2000 and existed until 2018 was based on the combination of the official-formal-legal "frontline" and the silently operating unofficial mechanisms. The increasing gap between the official and the private led to the spread, encouragement and formalisation of the "doublethink." On the other hand, in order to curb the increasing social polarisation, the slogan of "unification against the external enemy" was selected, by virtue of which the problem of Artsakh started to be regarded as the constituent of the Armenian question, and united with the demand for the recognition of the Armenian Genocide, was officially embodied in the ideology of nation-army. The same "doublethink" also dominated in the question of Artsakh, since the discourse of the "self-determination of nations" was preserved in external politics, while the political elites were clearly conscious of the inevitability of the handover of the occupied territories. Clearly such a stance excluded an open and rational communication with the people.

The events of 2018 brought the masses into politics. However, no return of enlightenment took place. The regime built on the exploitation of populism without frontiers and the resentment of those "in want" not only failed in building a "civic nation" but also made a transition to a dangerous model well-known from world history, in which there is a direct and emotional communication between the masses and the leader embodying their dreams, circumventing the public institutes and the "elites" from the past. In order to avoid the charges of the "formers" and preservation of the sympathies of the masses the authorities completely denounced the discourse of self-determination and returned to the rhetoric of "historic lands." The apotheosis of this was declaring that the Treaty of Sevres was the cornerstone of the foreign politics of Armenia.

The November document was a direct result of this policy. The politician standing in front of a choice between his personal rating and responsibility to the State, inevitably preferred his rating.

An Unfinished or Failed Project?

In response to an observation by German philosopher Jurgen Habermas in the 1980s about modernity being “an unfinished project,” Francois Liotard responded: “Modernity is not an unfinished, but a failed project.” Taking note of the inextricable connection between modernity and enlightenment, we have to ask ourselves: is enlightenment politics in Armenia an unfinished or a failed project?

One thing is clear, that future enlightenment politics cannot succeed on the basis of pure repetition of what is already in the past. Armenian politics wants *new rationality*, and therefore, a new model of enlightenment.

JUDICIAL REFORM IN THE MAKING

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The Declaration of Independence of Armenia heralded the launch of the separation of legislative, executive and judicial powers. With a view to implementing this fundamental tenet of the Declaration, several legal acts concerning the legislative and executive powers were adopted, including the RA laws “On the Supreme Council of the Republic of Armenia” and “On the President of the Republic of Armenia”. These legal instruments clearly set out the independence of both the RA legislative and executive branches of power, the safeguards of their independence, the competence and the system thereof, as well as their mutual relations.

Meanwhile, the judiciary continued to be governed by the laws and sub-legislative acts of the ASSR and even USSR. The judiciary and the judicial process in the Republic of Armenia were developed in the period of totalitarian political regime, when the judiciary was viewed as an attachment to the executive power. A judicial system was established and solidified which was expected to obediently provide services to the political regime in power.

It was not a secret to anyone that the judiciary and many institutions of the judicial process of the time had exhausted themselves and needed a speedy recovery. This crisis was conditioned not only by the lack of capacity of the judicial and law enforcement systems in the new socio-economic and political situation but the philosophical inadequacy of the substantive and procedural limbs of the law of the time to the newly developed societal relations and the socio-political values.

Therefore, three directions of implementing judicial reforms could be outlined:

1. Reform of the organization and functioning of courts and the law enforcement bodies;
2. Reform of procedural (trial, preliminary investigation, inquiry) principles and norms;
3. Reform of the branches of substantive law.

These three directions were inextricably linked to one another and required a systemic approach in the process of implementation. In the light of the necessity of such holistic reform, a natural question arose: what was to be the preferred sequence of reform?

Some law officials believed that reform in its classic sense was to be launched from procedural reforms until their effect became visible, and only afterwards proceed to structural reform. Undoubtedly, procedural reforms would introduce a great deal of clarity in the competence and functions of various judicial tiers and law enforcement authorities, as well as the rights and duties of the parties and other participants of proceedings.

Therefore, it was not difficult to guess that without structural readjustment any judicial reform of the old judicial and law enforcement structures would be doomed to failure. That was the reason why the structural and functional changes of the judiciary and law enforcement authorities were to be made together with changes in the procedural and substantive limbs of law.

If few people then disputed the necessity of judicial reform, questions of manner, structural changes of the judiciary, functions of various tiers thereof, relationship between the judicial and executive branches of power and many other aspects stimulated heated polemic and debate.

The legal thought in the State engendered two approaches to judicial reform, of which the first (timewise) was reflected in the draft RA law “On Judicial Power”, while the second was the Concept of Judicial Reform of the RA Ministry of Justice, on the basis of which the drafts of the RA laws “On the RA Court Formation” and “On the Status of Judges” were developed. Moreover, the latter two drafts were developed with direct participation of Gagik Ghazinyan, Harutyun Pivazyan and Mesrop Tovmasyan, lecturers of the Law Faculty of Yerevan State University. The main difference between the aforementioned approaches and the drafts was in the interpretation of the principle of the independence of the judiciary.

The proponents of the first approach were inclined to absolutize judicial independence and proposed to create a vertical, strictly hierarchic judiciary, which, in our profound belief, would endanger not only the independence of individual courts but also an entire instance of courts. Meanwhile, justice does not belong to those sectors of public administration, in which setting a direct hierarchy and centralization would contribute to objective and uninhibited administration of justice by individual courts.

A series of joint professional discussions between the proponents of the above two approaches and drafts in big and small forums did not lead to arriving at a common denominator regarding judicial reform.

The RA Ministry of Justice tabled their proposal on the main provisions underlying the judiciary recommending to hold broad consultations on it.

The principle of judicial independence implied independence of the court not only from the legislative and executive branches but also independence of each and every tier of the judiciary and court from the upper-instance judicial body and court. It must be recalled that the theory of separation of powers was generated as a check against the rising of dictatorships and arbitrariness of state power. According to that theory, the legislative, executive and judicial powers were to act as checks and balances vis-a-vis one another in the framework of law. Therefore, the principle of separation of powers does not suggest absolute independence and isolation of the legislative, executive and judicial powers from one another. It will not be possible in practice since this is about various branches of a single state power.

It was not accidental that the legislative and executive powers in the State had mutual checks and balances. For example, the right of veto of the RA President acted as a check for the legislative power. The institutions of the executive in their turn were accountable to the legislature and the latter could express no confidence to the cabinet. Similar leverage was to be foreseen also in the area of the relations between the judiciary and the executive and the legislature.

The approach whereby internal unity of the “judicial power”, as well as its independence from the “legislative and executive powers” is absolutized, could lead to nonsense. If the theory of separation of powers is interpreted in terms of “absolute delimitation between the judiciary and other branches of power,” and absolute independence thereof, then it can

be assumed that the same “legislative and executive powers” must also function in the same “absolute” situation.

It is often maintained that the executive while performing administrative functions in respect of the judiciary, may influence the administration of justice and infringe on the independence of the court.

In conformity with the principle that justice is administered only by the court, no one can convict a person otherwise than by a judgment of the court of law. It stems from this principle that an individual may be exempt from criminal liability and sanction only by the court of law. Therefore, refusing to institute a criminal case, discontinuing a criminal case, handing the accused over to the collective for further education by the decision of the body of inquiry, investigator or prosecutor on the basis of the materials and many similar decisions had inevitably to be reviewed by the court. This procedure would enable the interested party to have an opportunity for a three-tier review of any decision adopted by the court.

We were also convinced that the decisions to detain and arrest an individual must also be subject to judicial review. Moreover, a three-instance judicial system would enable more reasonable solutions to such issues.

The proposed judicial reform would require review of the system and functions of the RA procuracy and the RA interior bodies.

THE CONCEPT-PLAN OF REFORMS[1]
(15 January, 1997)

Introduction

No socio-economic transformation could take place in the Republic of Armenia without the requisite political and legal reforms.

Judicial remedies had a pivotal role in the general system of human rights safeguards. The basic provisions on the development and functioning of the judiciary prescribed by the Constitution of the Republic of Armenia, if adequately interpreted and implemented by appropriate legislation, were to create feasible conditions for comprehensive protection of human rights and freedoms stipulated by the Constitution.

[1] Submitted on behalf of the Ministry of Justice.

The National Assembly and the Government of the Republic of Armenia created special task forces for developing the most important drafts in the area of court formation and for drafting the codes of substantive and procedural laws. At the discussed stage of drafting the judicial legislation the drafting of a single concept of judicial-legal reform was of paramount importance along with clarifications of its structural and substantive provisions with a view to ensuring principal unity of implemented work and guiding the task forces developing the drafts of new codes.

The current paper gives a general outline of the entire judicial system of the Republic of Armenia along with its structure, powers of the main subdivisions and the timeline of reform.

General jurisdiction courts

In conformity with Article 92 of the Constitution of the Republic of Armenia the general jurisdiction courts were the first-instance courts, the appeal courts and the cassation court.

a) The first-instance courts: as the initial tier of general jurisdiction courts, they examine civil and criminal cases, as well as cases concerning administrative violations examined by the courts. They were to be located in a way convenient to the population. The first-instance courts were to be the largest in number.

The judicial areas of the first-instance courts were formed in conformity with the territorial division of the State with each region having one first-instance court (regional court). The district courts (town courts) of that time functioning in the territories of regions were to be preserved as parts of regional judicial territory.

The center of the region and the former regional centers and towns having courts were to be the seats of judges.

The judges of the first-instance court of the region were to be given the buildings of the (town) people's courts and service the areas of the current people's courts.

Such an approach would enable the regional (town) people's courts of the time and the communications linking the former regional centers with communities to service the territories of former regions.

The President of the regional first-instance court having his/her seat in the administrative center of the region was to service the regional center

as the district territory with a district center and to administer the works of the staff of the regional first-instance court.

The President of the court would be entitled to refer a criminal or civil case admitted to the court from one judge to another, thereby regulating the workload of judges.

At the time the people's courts of Yerevan handled around 35-45% of criminal and civil cases examined by the courts of the State. Considering this fact, the following six first-instance courts were to be created in Yerevan to service the following districts:

1. Shengavit,
2. Erebuni, Nubarashen
3. Shahumyan, Davtashen and Ajapnyak
4. Kentron, Nork-Marash
5. Arabkir, Kanaker-Zeytun
6. Avan, Nor-Nork.

Thus, 16 first-instance courts were to be established, including six in Yerevan and the rest in the regions.

b) General jurisdiction appeal courts: four general jurisdiction appeal courts were to be created, each of which to include the districts of which three to four were first-instance regional courts (except for Yerevan appeal court).

Criminal and civil chambers were to be formed in general jurisdiction appeal courts.

The biggest general jurisdiction appeal court in terms of the number of its judges was to be located in Yerevan and service only the districts of the jurisdiction of Yerevan first-instance courts.

The judicial district of the next appeal court was to include the judicial districts of Vayots Dzor, Zangezur, Ararat and Armavir regions. The court was to be located in the regional center of Yeghegnadzor.

The judicial districts of the first-instance courts of Aragatsotn, Shirak and Lori regions were to be included in the judicial district of the next general jurisdiction appeal court. The court was to be located in the Lori regional center.

And, finally, the judicial districts of the first-instance courts of Tavush, Gegharkunik and Kotayk regions were to be included in the judicial district of one more appeal court. The court was to be located in the regional center of Gegharkunik.

Thus, it was foreseen to establish four general jurisdiction appeal courts.

c) The Cassation Court of the Republic of Armenia: Together with its civil and criminal law chambers the Cassation Court of the Republic of Armenia was to solidify the structure of the general jurisdiction courts.

Economic courts

The first of the special (specialized) courts foreseen by the Constitution of the Republic of Armenia were to be the economic courts, which were to examine economic disputes.

a) The first-instance economic courts: in view of the peculiarities of the parties to the disputes adjudicated by economic courts and the expected numbers thereof, the number of the first-instance economic courts was to be small compared with the general jurisdiction first-instance courts.

Four first-instance economic courts were to be formed in Armenia: one in Yerevan, one for Zangezur, Vayots Dzor, Ararat and Armavir regions, one – for Aragatsotn, Shirak and Lori Regions, and one – for Tavoush, Gegharkunik and Kotayk regions.

b) The economic appeal court: one economic appeal court located in Yerevan was to fully ensure the review by the court of appeal of all such cases examined in the territory of Armenia.

c) The economic cassation court: the system of economic courts was to be finalized by the RA economic cassation court.

Arbitration courts

Arbitration courts were the most effective structures for the resolution of economic disputes to be established under the Chamber of Commerce and Industry, stock exchanges, the association of the commercial banks of the Republic of Armenia, and upon the initiative of commercial organizations. With the consent of the parties, they were to resolve the disputes arising between them. The activities of arbitration courts were to be closely linked with the activities of economic courts and ensure self-regulation of everyday turnover. The arbitration courts were to be established on the basis of the law regulating their functioning. A law would also be adopted on the procedures of arbitration courts.

Military Tribunals

a) The first-instance military tribunals:

The numbers and districts of military garrisons were to determine the number and judicial districts of these courts.

Five first-instance military tribunals were to be established in Yerevan, Sevan, Vanadzor, Gyumri and Zangezur garrison military tribunals.

b) The military appeal tribunal: one military appeal tribunal was to be established in Yerevan.

c) Cassation chamber: a judicial chamber for military cases was to be established in the general jurisdiction appeal court to serve as the cassation instance for military cases.

The procuracy and the main structure of the procuracy

The powers of the Procuracy of the Republic of Armenia were exhaustively listed in the Constitution of the Republic of Armenia, largely determining the structure thereof.

The study of the experience of the structure of the procuracies of advanced European countries demonstrated that the territorial structures of the procuracy must be established in parallel with judicial structures. The procuracy was to have its territorial structures in parallel with the system of general jurisdiction and military courts.

No structures of the procuracy were to be formed in parallel with economic courts since according to the Constitution, the procuracy had no powers to participate in the adjudication of economic cases.

The procuracy could act as a plaintiff defending state interests in the economic court and appeal only those judgments and decisions of that court, which have violated the interests of the State.

In parallel with general jurisdiction courts, the following structures of the procuracy were to formed:

1. In parallel with the general jurisdiction first-instance courts, regional procuracies were to be established to be headed by regional prosecutors. The regional procuracies were to be located in regional centers. The sub-districts of the district of the regional first-instance court were to be serviced by the deputies of the regional prosecutor who would sit in the centers of these sub-districts. The regional prosecutor (procuracy) was to exercise oversight over the inquiry and investigation conducted in the territory of the region,

defend the charge in the regional first-instance court, appeal the convictions, judgments and decisions handed down by the regional first-instance court (excluding the appeal of the convictions, judgments and decisions that have lawfully entered into force to the RA Cassation Court), exercise oversight over the penitentiary institutions in the territory of the region, and lodge complaints in defense of the interests of the State with the court.

2. In parallel with the four general jurisdiction appeal courts, respective procuracies were to be established to be located along with the appeal courts. The prosecutor (procuracy) heading the structure of the procuracy established in parallel with the appeal court was to defend the charge in the appeal court, appeal the convictions, judgments and decisions (excluding the appeal of the convictions, judgments and decisions that have lawfully entered into force to the RA Cassation Court) of the first-instance courts located in the judicial area of the appeal court, appeal the convictions, judgments and decisions of the appeal court that have not entered into force, resolve the issues foreseen in section 5 of chapter 19 of this Concept Paper.
3. In parallel with the criminal and civil chambers of the Cassation Court of the Republic of Armenia the subdivisions of the procuracy were foreseen in the central structure of the procuracy of the Republic of Armenia.

In parallel with military tribunals the following structures of the military procuracy were to be established:

1. In conformity with the first-instance military tribunals, five military procuracies were to be established in five military garrisons. The prosecutor (procuracy) of a military garrison was to exercise oversight over the inquiry and investigation of military crimes in the premises of the garrison, defend the charge in the first-instance military tribunal of the garrison, appeal the convictions and decisions of the first-instance military tribunal of the garrison (excluding the appeal of the convictions, judgments and decisions that have lawfully entered into force to the RA Cassation Court).
2. In parallel with the military appeal tribunal the relevant military procuracy was to be established. The prosecutor heading this procuracy was to defend the charge in the appeal court, appeal the convictions and decisions handed down by the first-instance military

tribunals (excluding the appeal of the convictions, judgments and decisions that have lawfully entered into force to the RA Cassation Court), appeal the convictions and decisions of the military appeal court that have not entered into force, resolve the issues foreseen in section 5 of chapter 19 of this Concept Paper.

3. The structure of the procuracy functioning in parallel with the chamber of military cases of the general jurisdiction cassation court was to be foreseen in the central structure of the military procuracy.
4. The military procuracy was a constituent part of the unified system of procuracy of the state procuracy and was to report to the General Prosecutor of the Republic of Armenia.

The regional prosecutor and his/her deputies were to exercise the powers foreseen by the law on procuracy adopted in the framework of Article 103 of the Constitution, which implied decentralization of the functions of the procuracy.

At the same time, exercise of certain powers was to be conferred only on the General Prosecutor of the Republic of Armenia and his/her deputies. In conformity with Article 93 of the Constitution, the judgments, convictions and decisions lawfully entered into force were to be reviewed by the general jurisdiction cassation court on the basis of the appeal of the General Prosecutor of the Republic of Armenia, and his/her deputies.

Prosecutorial oversight over the legality of investigation and inquiry, execution of sentences and other measures of coercion was in parallel with the territorial structures of the procuracy to be exercised by the relevant subdivisions of the central apparatus.

In a situation where there were several bodies of inquiry and investigation, the role of prosecutorial oversight was to increase the legality of their activities.

The idea of a strong prosecutor was to be paralleled with the idea of an independent investigator.

The prosecutor was to act as the organizer of inquiry and investigation.

The prosecutor was entitled to implement individual investigative actions.

The bodies of inquiry and investigation

The following bodies of inquiry were to be preserved:

1. The police;

2. The commanders of military units and the chiefs of military institutions in respect of crimes committed by certain categories of individuals;
3. Heads of corrective institutions, investigative isolators in respect of crimes connected with the internal law and order of these institutions;
4. State fire control bodies in respect of cases related to fires;
5. State tax authorities in respect of tax-related crimes;
6. Customs authorities in respect of cases involving contraband.

The authorities competent to conduct investigation were:

1. Judicial investigators;
2. Investigators of the Ministry of the Interior.

The Constitution of the Republic of Armenia exhaustively enumerated the powers of the Procuracy of the Republic of Armenia, while according to paragraph 2 of Article 5 of the Constitution, the state authorities were competent to perform such actions for which they were authorized by legislation. Therefore, the procuracy, in contrast to the current procedure, did not have any investigative powers.

Since the national security counterintelligence service was a sector of internal state operation, therefore this service had to be handed over to the Ministry of the Interior of the Republic of Armenia. This would also contribute to adequate performance of the main functions of the service.

Investigation within the system of the Ministry of the Interior was to be decentralized and combined with the measures directed at ensuring the independence of investigators. The investigative structures of the Ministry of Interior were to be formed per region and operate independently of the regional intelligence services.

The investigator was to adopt the most important procedural decisions independently from any departmental supervision. The right to appoint a judicial investigator was to be conferred on the Prime Minister of the Republic of Armenia upon the nomination of the prosecutor general.

Preliminary investigation of grave, particularly grave and military crimes was to be assigned to judicial investigators. In other words, judicial investigators were to “substitute” the investigators of the procuracy and the Ministry for National Security. The judicial investigators were to operate within the framework of general jurisdiction first-instance and military first-instance courts.

Increase of the material and social security of the staff of the law enforcement authorities was seen as the prerequisite of the success of legal and judicial reforms.

It was foreseen to substantially increase the existing remuneration of the staff of the law enforcement authorities. Remuneration had to be proportionate to the heaviness, complexity and danger of the work.

The first cornerstone for legal practice was set by the Constitution of the Republic of Armenia, Article 93 of which established the institute of licensed lawyers registered with the cassation court and entitled to appeal the judgments, convictions and decisions of the courts of the Republic of Armenia lawfully entered into force. The legislation was to stimulate free competition in this area as a strong human rights protection safeguard.

The duty to execute the judicial decisions, judgments and convictions was to be conferred on the Ministry of Justice. With a view to administration of execution proceedings judicial police was to be founded in the system of the Ministry of Justice to support court bailiffs to ensure independence, speed of the execution of judgments, thereby contributing to the improvement of the reputation of the court.

Corrective institutions and institutions for the detention of the arrested

The whole civilized world has placed the penitentiary (corrective) institutions under civilian oversight, in particular - oversight of the Ministry of Justice. The corrective institutions of the Republic of Armenia and detention facilities were to be handed over to the Ministry of Justice.

We were hopeful that handing corrective institutions to the Ministry of Justice would lead to the positive result of revival of interpersonal relations typical of civil society, contribute to the correction of convicts and adherence by them to the accepted norms of conduct.

The detention facilities for the arrested were also to be handed over to the Ministry of Justice, which in our profound belief was to contribute to the prevention of unlawful arrests and restrictions of freedom by the bodies of inquiry and investigation.

Adversarial proceedings

The principle of equality of arms is foreseen in the current criminal procedure code. However, it is illusory. The shifting of the burden of proof onto the parties and participants will enable the court to act as an independent arbitrator.

Naturally, an adversarial court would require a qualitatively new status of the parties to the proceedings fully reasserting the system of their rights and duties.

The parties and participants to the proceedings were not only to have equal rights and duties but also equal procedural safeguards and possibilities for the exercise of these rights. The Constitution of the Republic of Armenia brought considerable balance in the relations between the prosecution and defense. However, the issue was to finally and completely be resolved by the new criminal procedure code. What is referred to here is the expansion of the procedural safeguards for ensuring the rights of the defense.

Judicial decisions on pre-trial detention, search, seizure of correspondence, telephone, postal, telegraphic and other communications

The privacy of everyone's living space, correspondence, telephone conversations, postal, telegraphic and other communications were ensured by Articles 18, 20 and 21 of the Constitution of the Republic of Armenia.

These most important provisions for the protection of human rights and freedoms would be void, had their meaning been only in the change of the subjects permitting the implementation of procedural actions. The decision to apply pre-trial detention as a preventive measure in respect of an individual was to be adopted by the court during a trial, in the course of which the prosecution would put forward their arguments, while the defense submitted theirs. The court was to have a right to examine the facts of the case in an objective, complete and comprehensive manner and adopt a decision on applying or refusing to apply pre-trial detention as a preventive measure.

The need to preserve the speed and privacy of search, seizure of correspondence, telephone conversations, postal, telegraphic and other communication was to determine the peculiarities of the judicial procedure of adopting such decisions: only the representative of the state body

was to have the right to motion search or seizure of postal, telegraphic, correspondence.

The procedure of review of judicial decisions

Two procedures of reviewing decisions, judgments and convictions of the court were to be foreseen: appeal and cassation.

The review of the decisions, judgments and convictions of the court in the appeal and cassation courts was to be done by a panel of judges.

Cases on the basis of the appeals on the grounds of fact against decisions, judgments and convictions of the court were to be reviewed by the appeal courts under the appeal procedure.

Cases on the basis of the appeals on the grounds of law against decisions, judgments and convictions of the court were to be reviewed by the cassation courts under the cassation procedure.

The cassation courts were to review the decisions, judgments and convictions of the courts on the basis of judicial revisions, and/or newly emerged circumstances.

The following subjects were to have a right to bring an appeal or a cassation complaint with a view to reviewing the lawfully entered into force decisions, judgments and convictions of the court:

1. In the appeal court: the regional prosecutor, the prosecutor of the military garrison, the prosecutor heading the subdivision of the procuracy servicing the appeal court, the Prosecutor General of the Republic of Armenia, his/her deputies, specially licensed practicing lawyers registered with the Cassation Court of the Republic of Armenia;
2. In the cassation court: the Prosecutor General of the Republic of Armenia, his/her deputies, specially licensed practicing lawyers registered with the Cassation Court of the Republic of Armenia.

The main provisions of the new civil code

The new civil code of the Republic of Armenia was to establish a unified rule and order in the complex and multifaceted market relations, to ensure the defense of the pecuniary and non-pecuniary rights of citizens and other economic entities.

The following principles underpinning the spirit of private law reborn in a state governed by the rule of law were to underpin the Civil Code of the Republic of Armenia:

1. Equal rights of the participants of pecuniary turnover;
2. Security of property;
3. Freedom of contract;
4. Impermissibility of arbitrary interference by anybody, including the bodies of state and local self-government and their officials;
5. Necessity of uninhibited exercise of civil rights;
6. Ensuring unequivocal restoration of violated rights;
7. Judicial protection of rights.

The civil code was to implement the concept, according to which economic liberty becomes the driving force of progress only when it is stipulated in the general system of legal principles and is embodied in law.

The development of the civil code of the Republic of Armenia was to be combined with the development of such important drafts as were:

1. On the state registration of legal persons (commercial and non-commercial organizations);
2. On the state registration of rights in respect of land and other real estate, as well as transactions involving them;
3. On the chambers of trade and industry;
4. Currency regulations and control;
5. Licensing individual types of activities;
6. Notary Public;
7. Insurance, etc.

The main provisions of the new criminal code

The imperative was to create a new criminal code of the Republic of Armenia. The drastic reform of criminal legislation was seen as an important constituent of the general reforms implemented in the country.

Criminal legislation was to be improved in the following directions:

1. The principles of legality, inevitability of liability, liability according to guilt, and humanity were to be stipulated legislatively and consistently implemented;
2. Primary protection of human rights and freedoms;

3. Those norms which inhibited or limited the development of new societal relations or foresaw liability for any act with low level of danger for the public were to be removed from criminal code, and, on the contrary, norms, which protected new societal relations (criminalization and decriminalization) were to be added;
4. Criminal legislation was to be supplemented with norms that stem from liberal economic and societal relations;
5. Equality of all before law and humanity was to be applied in case of group crimes and repeat crimes;
6. The norms of criminal legislation (especially sanctions) were to be developed in such a way as to fully reflect the principle of fairness to exclude to the extent possible subjective discretion;
7. The world experience of criminal legislation was to be used.

The adoption of codes and laws in implementation of judicial legal reform was foreseen for 1997-1999. In that period over 30 laws and codes were to be adopted to make a full transition to full implementation of these reforms and they would be finalized.

Criminal, civil, criminal procedure and civil procedure codes, the laws on court formation and procuracy were to become effective as of January 1999.

Preparation and training of the legal cadres

Legal education was to be organized in parallel with the implementation of the legal and judicial reform program. The methods and ways of education were meant to be diverse.

A large number of lawyers were participating in the works of commissions formed by the National Assembly and the Government with a view to developing the draft judicial codes and laws, which itself was legal education.

Two ways of preparation and training of legal cadres must be emphasized:

University education

The tight schedule of judicial and legal reform required revision of the curriculum of the final years of the law faculties of universities in the light of the preparation of new legislation.

Training in a Specialized School

Having studied the practice of the advanced European countries in this field and considering the fact that the graduates of law faculties of the universities were not capable of independent practical work, a specialized school for preparation of judicial and procuracy cadres, which was to admit only individuals with higher legal education was foreseen.

* * *

On the basis of the concept of judicial and legal reform approved by the NA, by 2000-2001 the RA laws “On the RA Court Formation” and “On the Status of Judge” had been drafted and adopted, the processes of the selection and appointment of candidates for judges had legislatively been regulated and particularized, along with the legal, material and social safeguards for independence of judges, the procedures of disciplinary liability and resignation. As a result, a completely different and new judicial system and courts were developed and became operational.

In parallel with the development and introduction of the new judiciary and with active assistance of international expertise, the main substantive and procedural codes were adopted. The measures were taken to draft and finalize over a dozen important codes and laws within a short period of time. Their adoption made it possible for the judiciary in Armenia to function fully and effectively.

CONSTITUTIONAL JUSTICE AS A SAFEGUARD FOR THE FOUNDATION AND DEVELOPMENT OF ARMENIAN STATEHOOD



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On August 23, 1990, the first democratically elected Supreme Council adopted the Declaration of Independence of Armenia, enshrining the fundamental principles of the newly independent Armenian statehood. According to paragraph 12 of the Declaration, it was to act as the basis for drafting and adopting the Constitution and new legislation of the Republic of Armenia.

On November 5, 1990, a constitutional commission of the Supreme Council consisting of 20 members was established with a view to drafting the Constitution of the newly independent Armenia. Initially, it was chaired by Levon Ter-Petrossian, Chairman of the Supreme Council and, starting from October 1991 - RA President. Later, following the enlargement of the commission in 1994, it was co-chaired by Babken Ararktsyan, Chairman of the Supreme Council. The commission also included Ara Sahakyan, Secretary of the Supreme Council and, later - first deputy of the Chairman of the Supreme Council, Vahe Stepanyan, Minister of Justice, MPs, lawyers and other prominent public figures.

The final draft of the Constitution was adopted on April 13, 1995 and approved by the Supreme Council on May 12, 1995. It was adopted as the basic law in a national referendum held on July 5, 1995. This meant that the sacred behest of our freedom-loving ancestors about restoration of the Armenian sovereign statehood, and message of the preamble of the Constitution about the commitment to the strengthening and prosperity of the fatherland, the purpose of ensuring freedom of generations, general well-being and civic solidarity, and assuring the allegiance to universal values, was called to life.

An extremely important precept of the Declaration of Independence on establishing a system of professional independent bodies to administer

politically neutral justice along with the establishment of the legislative and executive powers equal before the law was reflected in Chapter 6 of the Constitution, according to which in the Republic of Armenia justice was to be administered only by courts in accordance with the Constitution and the laws. In this sense, an important achievement for the newly independent Armenian state was the introduction of the function of constitutional review (constitutional justice), according to which the power of resolving the constitutionality of legal acts (norms stipulated therein), of the obligations set forth in international treaties subject to ratification was to be performed by the newly-established Constitutional Court along with a number of other functions.

Despite the fact that the influence of the classic approaches of contemporary French constitutional jurisprudence was notable in the process of drafting the Constitution, nevertheless the constitutional commission of the Supreme Council opted for the more widespread European (continental) model of constitutional justice, at the heart of which were the doctrinal principles of Hans Kelsen, founder of the Austrian Constitutional Court, according to which constitutional review (especially in case of determining the constitutionality of normative acts) must be conducted through justice administered by an independent body founded with proportionate participation of other branches of power.

The advantage of the choice of this model of constitutional review in the Republic of Armenia was conditioned by its flexibility as demonstrated by its endurance in the face of the challenges of the geopolitical developments in the European continent since the middle of the 20th Century and afterwards, its ability to effectively resolve problems faced by transitional states, which was more in harmony with the socio-political realities and the logic of democratic development of Armenia in that period and is still up-to-date. This model of constitutional review was also acceptable in view of the radical reforms of societal relations of that time, and it was to act as a criterion to assess to what extent were the adopted legal acts or actions of the authorities in line with the constitutionally determined principles of these relations.

Thus, according to the 1995 Constitution, the body exercising constitutional review in the RA was the Constitutional Court with exclusive powers to determine in the manner prescribed by law the compliance of laws, resolutions of the National Assembly, decrees and orders of the

President of the Republic, Government decisions, obligations set forth in international treaties with the Constitution, as well as resolve the disputes arising in connection with referenda, elections of the President of the Republic and the MPs. Where there were relevant grounds, the Constitutional Court also had the powers to suspend or prohibit the activities of a political party, impeach the President of the Republic, where s/he was unable to exercise his/her powers, acknowledge the obstacles arising for the candidate for the President of the Republic as surmountable or eliminated, declare martial law, issue a conclusion on the foreseen steps in case of an imminent danger to the constitutional order. The Constitution also envisaged high-level international legal standards for the independence of the Constitutional Court and its members, as well as the procedure for the formation of the Court and the proportionate participation of the President of the Republic and the National Assembly therein.

Thus, by the adoption of the Constitution on July 5, 1995, a structure for administration of constitutional justice was introduced whereby an important principle for opting for a constitutional solution in critical situations for all sectors of public life was applied which was to act as a weighty and at the same time internationally approved safeguard against derogations from constitutionally defined principles in the exercise of public authority and undesired illegal forms of domestic political struggle, i.e. goals that directly emanate from the Declaration of Independence of Armenia, as well as the RA Constitutional Law On the Fundamental Provisions of Independent Statehood adopted on September 25, 1991.

The law “On the Constitutional Court” was adopted by the National Assembly on November 20, 1995, and promulgated by the President of the Republic on December 6, 1995, becoming effective on December 8.

The first team of the Constitutional Court magistrates was formed from February 5-6, 1996. On February 5, 1996, Alvina Gyulumyan, Volodya Hovhannisyan, Michael Sevyan and Hrant Nazaryan (the author of this text) were appointed as members of the Constitutional Court by the Decree of the President of the Republic. On February 6, 1996, Gagik Harutyunyan, Vahe Stepanyan, Henrik Khachatryan, Valery Poghosyan and Vladimir Sahakyan were appointed as members of the Constitutional Court by the National Assembly. On the same day Gagik Harutyunyan was appointed as Chairman of the Constitutional Court by the Resolution

No. N-075-I of the National Assembly. The Court elected Vahe Stepanyan as Deputy to the Chairman of the Constitutional Court.

Thus, for the first time in the Republic of Armenia a Constitutional Court was formed with a composition of the chairman, deputy chairman, and seven members of the Court.

However, once the Constitutional Court became operational and started performing the function of administration of constitutional justice, it became obvious that there was a lack of institutional experience in administering justice in this area, which objectively necessitated consolidation and focusing the entire intellectual and professional potential of the Court with a view to studying the international best practices in performing the function of constitutional justice. This required establishment and development of international practical cooperation with the bodies administering constitutional justice and prominent academic institutions in the newly independent states of the former Soviet Union, European countries and the countries of the American continent. A significant organizational role and leadership in this area was successfully demonstrated by Gagik Harutyunyan, the first Chairman of the Constitutional Court. We were all unanimous in the Court that we could not limit ourselves to the exercise of official powers only. It was necessary to speedily introduce and develop a culture of conducting continuous research of academic and theoretical and practical nature in various areas of constitutional law in the Court and incorporate the results thereof in the offered constitutional solutions.

From the very first year of its existence the RA Constitutional Court became a member of the Council of Europe Commission for Democracy through Law (the Venice Commission). A year later, in October 1997, the “Conference of the Constitutional Courts of Young Democracies” international organization was founded. In 2000, when Armenia was not yet a member of the Council of Europe, the RA Constitutional Court became a full member of the International Conference of the Constitutional Courts of the European Countries. This unprecedented event was assessed as unique by Mr. Guéna, the Chairman of the French Constitutional Council, by stating that “The Constitutional Court of Armenia is a fully developed institution and its exceptional full membership in the Conference is well justified by its productive participation in this large European structure, its activeness and many interesting and realistic recommendations tabled by the Court.”

The Court initiated the tradition of organizing annual international conferences in Yerevan. Each conference was different from the previous by the urgency and diversity of the subject of discussion, broad circle of participants, including prominent lawyers and constitutionalists, heads of the bodies having the powers of constitutional review, chairpersons of courts and other representatives of the judicial power.

The presentations, the reports and analyses of discussions have regularly been published in the bilingual – Russian and English – journal entitled "Constitutional Justice", the international four-language annual chronicle "Constitutional Justice in the New Millenium", the official website of the Constitutional Court and online mass media. Incidentally, the official website and the online information system of the Constitutional Court were recognized among the best in the relevant international forums.

It is important to note that the approaches tabled in the course of professional discussions, and the judicial practice would subsequently be summarized as the basis for outlining the possible directions of subsequent development and enhanced efficiency of constitutional justice. The primary issue was the further strengthening and improvement of the constitutional guarantees of human rights protection and the introduction of the mechanism of individual constitutional complaint. No less important were the issues of introducing more efficient procedures for the separation and balancing of the branches of state power, independence of the judiciary and strengthening of the role of the Constitutional Court.

Of great relevance was the necessity to resolve the disputes arising in connection with the powers of the bodies of public administration, and to document and constitutionally determine their peculiarities at the relevant transitional stage of the newly independent state's consolidation. This clearly proved that from the very first years of its existence the Constitutional Court was an active participant of both analysis and resolution of the problems arising from the developments in the area of rule of law and democracy in Armenia. Within a short period, a library with thousands of volumes of professional literature was opened in the RA Constitutional Court, constitutions, legislative acts of over 150 countries, as well as the comparative analyses thereof translated in different languages were developed and practically applied. As a unique awareness raising programme it was accepted by the International Constitutional Law Association and was made available to broad professional circles and the bodies administering constitutional justice in different countries.

An online database of comparative analysis of official international documents in the area of human rights was developed, encompassing around 1,500 documents adopted by all international UN and European structures. The activities in the area of study and analysis of the European Convention on Human Rights and the case law of the European Court of Human Rights, and access to the decisions thereof were finalized.

The aforementioned achievements clearly demonstrate that the RA Constitutional Court was a fully consolidated structure under all international standards. Having assumed the role of a full and equal entity of inter-institutional relations within numerous European structures, from the very first years of its formation and operations the RA Constitutional Court made a significant contribution to increasing the international reputation of the newly independent Armenian state.

Nevertheless, the ongoing operations of the Court, the substance of issues raised in the received applications and the necessity to give relevant legal solutions to them, coupled with increasing public demand, on the one hand, and endless active discussions within the frames of international cooperation and the conclusions ensuing from them, on the other hand, unequivocally led to the conclusion that it was necessary to take continued measures in line with the dynamics of the socio-political developments at the level of constitutional and legislative regulation to provide concrete solutions commensurate with the legal system of a state adhering to rule of law and democracy, with a view to enhancing the independence and effective functioning of the judicial power and further strengthening of human rights protection safeguards. These issues were of primary importance to constitutional justice, without which it would be impossible to fully ensure the supremacy of the Constitution and guarantee human rights protection.

It was necessary to reassess (develop) the provisions of the Declaration of Independence: in the first place to include the principle of human dignity as the basis for the concept of the State-individual relationship, to indicate that the main constitutional legal mission of the State was further strengthening the preconditions and guarantees of the fundamental human and civil rights and freedoms, instead of the rule of the written law as the main criterion of the functioning of the bodies of public administration and their officials – prescribe rule of law, and in this context define the hierarchy of legal acts, attributing the supreme role to the Constitution, then to laws and other legal acts.

The practice of the first years of the functioning of the Constitutional Court proves convincingly that the Declaration of Independence essentially encompassed targeted solutions bequeathed to the state and required decades-more effort than had been possible to imagine at first sight. Additional effort was required to substantially improve and expand the human rights protection measures safeguarding not only the right to judicial remedy but also the right to effective remedy before all other state institutions, and when exhausting all domestic procedural remedies, the right to apply to international human rights protection bodies.

Thus, it was required to call to life a more democratic mechanism of comprehensive protection of human rights and liberties than what was foreseen by the 1995 Constitution, to harmonize the direction of constitutional justice in Armenia with the level of public needs, to transform the Constitutional Court from a body assessing the constitutionality of obligations enshrined in international treaties into a court protecting fundamental human rights and ensuring the supremacy of the Constitution.

It should be noted that for years whilst examining applications and discussing issues in diverse professional forums the Constitutional Court had touched upon the provision of paragraph 2 of Article 38 of the 1995 Constitution as a problem to be interpreted in the light of the exercise of the right to individual complaint, since in the absence of the institute of such complaint, the human right to judicial remedy was quite limited. And since individuals were not included among those having standing before the Constitutional Court and the 1995 RA Law on the Constitutional Court did not foresee such a regulation, the issue of exercise of the right to constitutional complaint was suspended. Therefore, it remains for us to honestly admit that under such conditions, by applying a broader interpretation of paragraph 2 of Article 38 of the Constitution only, the newly established RA Constitutional Court, which was undergoing a transitional development, would be unable by its decision only - and without adequate constitutional regulation - to overcome this legal gap.

The inertia of the normativist legal thinking inherited from the previous legal system was still enormous, and perhaps more time was needed to make the transition towards a culture of more liberal legal analysis. This was a systemic problem and the members of the Court were fully aware of it. The decisions of the Constitutional Court are an important source of

development of law, have a significant guiding effect both at the level of setting of legal norms and their application (especially judicial practice) and this could not be ignored.

In the light of further developments, the institute of constitutional (individual) complaint was called to life, according to which everyone in a concrete case having a final judicial act, having exhausted all judicial remedies and disputing the constitutionality of the provision of law applied to him/her, had a standing before the Constitutional Court. The number of institutions having standing before the Constitutional Court was expanded to include courts, the General Prosecutor, the Human Rights Defender and the local self-governing bodies. The institute of concrete constitutional review of legal norms was called into being. The list of the normative legal acts subject to examination by the Constitutional Court was also expanded, to include in addition to laws, resolutions of the National Assembly, decrees of the President and decisions of the Government, also the decisions of the Prime Minister and the local self-governing bodies. As a means for effective application of the institute of local self-governance, a procedure for prior constitutional review of the impeachment of the head of community was foreseen.

The frames of constitutional and legal regulation of the disputes arising in connection with referendums, presidential and parliamentary elections were also clarified. In view of objective time-constraints with regard to resolution of such disputes by the Constitutional Court, the broad array of issues subject to examination, as well as the need for delineation between the powers of first-instance and specialized courts and the Constitutional Court with regard to electoral disputes, the frames of such disputes and the issues to be resolved were more concretized: the Constitutional Court was conferred with the function of resolving the disputes arising in respect of the final decisions summarizing the results of elections, i.e. the decisions of the authorized bodies summarizing the results of elections only. As a result, the legislative regulations for resolving such disputes became more concrete from a legal point of view, which clearly meant that the Constitutional Court was to examine the final decisions of the Central Electoral Commission for national elections and the final decisions of territorial electoral commissions in respect of MPs elected through a majoritarian system.

It should be noted that the introduction of the individual complaint mechanism resulted in a sharp increase in the number of applications

lodged with the Constitutional Court. In the two years following the above constitutional and legislative amendments the number of individual complaints submitted to the Court reached about 2,000. However, only 9% of these applications met the requirements of the Law on the Constitutional Court and were examined by the formations of the Court. And only in case of 39 individual applications were decisions adopted regarding the constitutionality of disputed norms. Interestingly, of the 234 individual applications submitted to the Constitutional Court in 2006, 210 were declared inadmissible since they failed to meet the requirements of the Law on the Constitutional Court.

It is also important to note that the mechanism of individual complaint not only completed the system of judicial remedies for violations of human rights and freedoms but it became a unique litmus test to regularly raise the systemic problems existing in the justice sector in respect of unified understanding of the essence of the constitutional regulations of fair trial guarantees, including equality of arms, fairness, independent and impartial court, hearing within a reasonable time, publicity of trial, of the right to property, deprivation of property, its alienation in conformity with their constitutional and legal substance.

Within the frames of the listed problems the Constitutional Court adopted a number of decisions which had an essential impact and significance for restoring violated human rights and freedoms, for harmonizing legislative regulations with the requirements of the Constitution, as well as improvement of the legislation of the time.

At the heart of the adoption of a broad array of decisions of the Constitutional Court and the legal positions supporting them are certainly issues raised by individual complaints, which undoubtedly proves that the mechanism of individual complaint had a significant impact on further development and consolidation of democracy, and strengthening the rule of law in the Republic of Armenia. The aforementioned examples from the judicial practice are not unique. In the course of 2006-2015 alone, the Constitutional Court adopted around 570 decisions, which cannot be discussed at length within the bounds of this publication. On the other hand, the analysis of the judicial practice of the time demonstrates that the position voiced in different international forums to the effect that it was necessary to introduce the classic German model of constitutional complaint in Armenia, allowing challenging not only the constitutionality of the provisions of law applied by the judicial act in respect of a concrete

case but also the constitutionality of the final judicial act adopted in that concrete case, was well justified.

It goes without saying that at the level of constitutional and legislative regulation it would be necessary to clearly delineate the boundaries of performance of that function and the legal effect of recognizing a judicial act as unconstitutional. This would in the first place strengthen the system of checks and balances within the judiciary leading to the decrease of the number of applications to international human rights protection bodies from Armenia. The result would be a process of developing a self-sufficient judiciary.

Summarising the achievements of the aforementioned historic time-frame for establishing constitutional justice as outlined by the Declaration of Independence and called to life by the 1995 Constitution, it can confidently be maintained that this was a responsible time for the consolidation of the Constitutional Court. There were all the prerequisites for unfolding the whole potential of the Court and putting the latter to the service of ensuring the supremacy of the Constitution.

The documentation of the achievements of the first years of the introduction and development of constitutional justice in Armenia vividly demonstrates that the Constitutional Court of the Republic of Armenia, having endured all the objective challenges of the consolidation and development of the newly independent statehood, played a significant role in the area of protection and strengthening of constitutional order and legality, as well as development of law, at the same time acquiring a considerable international reputation.

REFORMS OF THE FORM OF GOVERNANCE OF THE REPUBLIC OF ARMENIA IN THE PERIOD OF TRANSITION
(1990-1995)



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After the adoption of the "Declaration of Independence of Armenia" on August 23, 1990, profound reforms began in all spheres of public and state life in the Republic of Armenia, including the transition from the Soviet pyramid system of public administration to a state administration that met the requirements of democracy.

However, there was a significant obstacle to such reforms in the Republic of Armenia and other newly independent states at this stage. Reforms were possible only with extensive changes in the existing Constitution, or by accepting a fundamentally new constitution.

To achieve that goal, the Supreme Council's Constitutional Committee was created on November 5, 1990.

The Constitutional Committee had two main tasks: a) to prepare a Draft Constitution of the Republic of Armenia, and b) introduce amendments to the current Constitution to the Supreme Council.

The second task of the Committee emerged on the agenda since the urgent preparation of the new Draft Constitution was not possible due to the simple reason that the essence, the main features, and development perspectives of the newly independent state were not yet clear.

There was also another complication – in the conditions of the Soviet totalitarian system, in Armenia and other post-Soviet republics, there were no experts specialized in principles and action mechanisms of a constitution of a legal state based on market relations.

Obviously, the implementation of legislative reforms in various spheres of public life (including the state government form) could not be postponed until the adoption of the new Constitution. However, the respective laws and other normative legal acts were often in deep contradiction with

the provisions of the Soviet Constitution. For example, in the autumn of 1990, the law "On Property in the Republic of Armenia" came into force. This law envisaged equality and equal legal protection of various forms of property, which should have become the economic bases for the formulation of civil society and the rule of law. Meanwhile, the economic system of a society constituted by the Soviet Constitution was based on the exclusive right of the State to own the means of production. Thus, by the 8th clause of the Republic of Armenia Supreme Council Decision on the "Implementation of the Republic of Armenia Law on Property in the Republic of Armenia," the Constitutional Committee was instructed to present recommendations about making respective changes to the Constitution in force during that time. A similar recommendation was also included in clause 2 of the Republic of Armenia Supreme Council Decision on "Dissolving the Republic of Armenia public supervision committee."

Thus, a classical approach was adopted in the Republic of Armenia in the first phase of the reforms. However, laws were adopted that entered into legal force upon introduction of necessary changes in the existing Constitution. Thus, several changes were made in the existing Soviet Constitution on August 13, October 17, and November 13.

However, such an approach is efficient only in cases of gradual, evolutionary development of society. In the transitional, breakthrough stages, a number of significant drawbacks of this practice appear.

First of all, the pace of the reform implementation was slowed down. In line with the acting Constitution, constitutional changes could be made with two-thirds of the votes cast – by a qualified majority. As a rule, this majority was formed when voting for draft laws on the so-called national, national-liberation issues. However, during the discussion of other draft laws, mainly concerning the society's economic basis or political system, the various political forces represented in the Parliament, mostly had specific approaches and naturally were voting in different ways. It is noteworthy that in the Parliament of the Russian Federation, the process for creating the right to private ownership of land lasted for more than a decade.

It seemed there was a straightforward way out of the situation – to suspend the Soviet Constitution. However, in practice, it was also not possible. The constitutional norms directly regulated several essential spheres of public relations, and the suspension of the Constitution would inevitably lead to substantial gaps in the legal regulation of the respective

spheres. In particular, constitutional norms defined the structure of the Supreme Council, the order of formation and operation of that body, the powers of the Supreme Council and its bodies, the order of formation and function of the government, the judicial system, the territorial administrative division of the country, etc.

An innovative approach was adopted to solve the problem in the above conditions. On December 10, 1990, the RA Supreme Council, upon the recommendation of the Constitutional Committee, accepted a Constitutional Law On the Legislative Acts adopted in line with the Declaration of Independence of Armenia. According to it, until the "Adoption of the Republic of Armenia Constitution, the provisions of the current Constitution that contradict the laws as adopted by the RA Supreme Council based on the Declaration of Independence of Armenia, shall be suspended".

Although this law has significantly affected Armenia's independent statehood, it has not yet undergone a serious legal analysis.

With the adoption of the law under discussion, a new phenomenon was introduced in the RA legislation system – a new source of law.

The Constitutional law did not stop the action of the Soviet Constitution, providing through this an opportunity to avoid gaps in the sphere of constitutional regulation. That law just deprived the acting Constitution of the highest legal force. Namely, the Constitution was transformed into a normative-legal act with alternative legal power. It preserved its highest legal force towards all the normative legal acts, including the laws, except for the regulations adopted based on the Declaration. The provisions of those laws acquired a higher legal force over the norms of the Constitution that was in force.

In principle, such an approach was mainly in line with clause 12 of the Declaration, according to which "the Declaration shall serve as a basis for the development of the Republic of Armenia Constitution, and for making changes and amendments to the Constitution in force." However, the approach fixed by the constitutional law was not inviolable from the purely legal perspective.

It is not always possible to substantiate that this or that legal provision of a concrete law has been adopted based on the Declaration. Thus, according to clause 8 of the "Declaration of Independence of Armenia", the Republic of Armenia shall ensure separation of legislative, executive, and judicial powers on its territory. However, the separation of powers

and the introduction of the mechanism of checks and balances between those authorities can be maintained in “presidential”, “semi-presidential”, or “parliamentary” systems of governance. Thus, it is not at all unequivocal that the “Law on the President of the Republic of Armenia” is based on any clause of the Declaration.

At the same time, the constitutional law under discussion created an opportunity for the ordinary legislative process to overcome the “resistance” of the Soviet-type Constitution towards the implemented reforms. Reforms implemented based on the constitutional law included not only the state governance sphere but also the foundations of public and state economy and policy. In particular, the very legislative law under discussion created an opportunity to adopt and implement without making any changes to the Constitution, the law “On Peasant and Collective Peasant Farms”, which entirely established the right to private ownership of land, as well as the law “On Socio-political Organizations,” which served as a legal basis for the formation of a multi-party political system.

The constitutional law was also the legal basis for the transition from a Soviet government to a government that was more in line with the requirements of democracy.

At that time, in line with Article 98 of the still-functioning Armenian SSR Constitution (1978), the highest body of state power was the Supreme Council, which, in addition to powers directly vested in it by the Constitution, could also discuss and resolve any critical problem of public and state life.

At the same time, Article 5 of the same Constitution stipulated that the leader of the public and its guiding force is the Communist Party. As a result of these legal regulations, a tradition was formed in the state governance framework, according to which, one or two days before the Supreme Council Session, a central plenary of the governing Communist Party would take place, which discussed the issues included on the agenda of the Supreme Council and provided recommendations to the communist deputies constituting the vast majority of the Supreme Council on voting “appropriately”. It is noteworthy that from the mid-30s until Gorbachev’s Perestroika, all the acts of the USSR Supreme Council and the Union Republics’ Supreme Councils were adopted unanimously.

In such conditions, the highest state power was practically entirely concentrated in the hands of the ruling party. For the implementation of the Soviet power, also a fundamental principle was that of the

so-called democratic centralism, as established by the Communist party statute. As a result of this principle, the political bureau of the Central Committee of the Communist Party comprised around 20 members, and in the first place, the General Secretary, was the factual decision-making center.

Thus, as of 1990, there was a pyramid-type state power structure in the Republic of Armenia, the peak of which was not the Supreme Council proclaimed as such, but a few representatives of the elite of the only party.

It could be stated that the ASSR Supreme Council has been the highest state governance body only since the spring of 1990, when as a result of the ordinary elections, the communist party failed to have a majority in the Supreme Council, and the Supreme Council came out of the custody of the Communist elite.

After that, it became immediately apparent that in the new conditions, the Supreme Council could not act on its own in total capacity and efficiently implement the powers of the highest governance body. Thus, many failed attempts of the Supreme Council to nominate members of the newly forming government led to the adoption of the decision “On Giving Special Powers to the Republic of Armenia Government and its President” on November 30, 1990. By this decision, the President of the RA Council of Ministers was temporarily, up to one year, entitled to nominate and dismiss from office the members of the Council of Ministers. Thus, there was no further doubt about the need to quickly transfer to a form of governance in line with democracy requirements, which had been already set out in the Declaration of Independence of Armenia.

This issue was solved on the basis of the above discussed constitutional law, through the law “On the President of the Republic of Armenia” and “On the Supreme Council of the Republic of Armenia.” By force of these, significant elements of power separation were introduced into the state governance system, and the constitutional and legal bases of the new state governance were formed.

It is not easy to classify the state governance system established based on the above-discussed laws unequivocally as one of the classic forms of the state governance of the modern world. It could be described as a “hybrid” governance form, including presidential and semi-presidential governance elements. Thus, following Article 1 of the constitutional law “On the President of the Republic of Armenia,” the

President headed the executive power of the Republic. According to Article 10 of the same law, the vice-president was elected at the same time as the President. These features are typical of the presidential system of governance. At the same time, clause 6 of Article 8 of the law established the government institute, which operated under the leadership of the president and carried political responsibility before the Parliament. This circumstance is more typical for the semi-presidential governance system. It should also be noted that the reforms through those laws included only the legislative and executive branches of the state power. The judiciary system stayed the same – Soviet – due to different and mainly subjective reasons.

It is also important to highlight that in the difficult transitional period and war situation, this type of governance allowed the State to govern quite efficiently, and to avoid various threats to statehood.

Preparation and Adoption of the Draft Constitution of 1995

In parallel with the reforms mentioned earlier, the Constitutional Committee was working on preparing the Draft Constitution of the Republic of Armenia. The adoption of the Constitution was an urgent issue, and it was acknowledged by all the political forces and the public. As noted by the President of Armenia, the President of the Constitutional Committee L. Ter-Petrossian in the meeting of the Constitutional Committee, “All of us realize that the basis of state stability is the Constitution, and only through its adoption the internal political struggle will recede, since thereafter no force – neither the government nor the opposition – can attempt to bypass the people’s will…”

However, during the discussions, several conceptual issues emerged in the first meetings of the Constitutional Committee, about which the members of the Committee expressed diametrically opposite positions. The debate mainly concerned the type of state governance to be chosen. During the discussion, diametrically opposed ideas were expressed, giving preference to the presidential, semi-presidential or parliamentary government. The discourse on the issue of the most preferred way of public administration was conditioned by both “objective” and “subjective” factors. Thus, as L. Ter-Petrossian states, both sides had their arguments and motives. It is noteworthy that several sittings of the Constitutional Committee were devoted to the theoretical discussions of the main

features of the various state governing powers of the modern world and the problems of the efficiency of those powers in the specific conditions of the Republic of Armenia.

As a result of the debates, a decision was made to concentrate the efforts on creating a Draft Constitution establishing a system of semi-presidential governance. Such a decision was based on several essential arguments. First of all, it was considered that in a semi-presidential governance system the president is endowed with a primary mandate and plays a significant stabilizing role, contributing to the force in power and, to a certain extent, to the consolidation of the opposition forces. This factor ensured the stability of the legislative and executive powers.

It is noteworthy that this governance form emerged in France after the Second World War, when, in conditions of a society divided by war, a collapsed political system, as well as hostilities in Indo-China and Algeria, the form of parliamentary rule no longer ensured the stable and effective operation of the state mechanism. In these very conditions, the idea of the "national leader" institute emerged, which further became the pillar of the new semi-presidential governance system. The experience of the Fifth Republic of France proves that in the changing socio-political conditions, this form of governance is the most effective. It is, therefore, notable that in most post-socialist states, including the Republic of Armenia, preference was given to the semi-presidential government.

Direct work on the Draft Constitution of the Republic of Armenia began in the Constitutional Committee in the autumn of 1992. During the 23rd meeting of the Constitutional Committee held on October 23, 1992, the principal approaches towards the Draft Constitution establishing the semi-presidential rule were discussed. Upon sharing ideas, it was decided to additionally revise the presented version, and in case of other drafts available, work on each of those and circulate the best version for public debate.

The revised Draft Constitution was discussed in a few sittings of the Constitutional Committee and, after being further amended, was approved in the sitting held on June 24, 1993.

By the decision of the Supreme Council, that Draft was submitted for a nationwide debate. The discussion lasted for nine months, and more than a thousand comments and recommendations were received about the Draft. The Constitutional Committee approved the Draft Constitution after discussions in several sittings and additional amendments following

those discussions, and in June 1994 resubmitted it for the RA Supreme Council's consideration.

Apart from the Draft of the Constitutional Committee, other drafts of the Constitution were also prepared. Thus, simultaneously with the Draft of the Constitutional Committee, four alternative drafts were presented for discussion, the main alternative among which was the one presented by six opposing parties. As a result of the discussion, none of the drafts received the required qualified majority of votes. The Supreme Council decided to send the Draft back to the Constitutional Committee for revision, and for taking into consideration the alternative drafts.

On August 4, 1994, the Constitutional Committee created a working group of five people, including only legal specialists - V. Stepanyan, V. Zurnachyan, V. Nazaryan, R. Petrosyan, and F. Kharatyan. Several changes were made to the Draft based on the recommendations of the working group. On April 13, 1995, the final text of the Draft Constitution was accepted by the Committee and resubmitted to the discussion of the Supreme Council.

Parallel to the development of the Draft Constitution, intense discussions were taking place in the Supreme Council related to the procedure of adopting the Constitution. On April 12, 1994, in the 12th meeting of the Supreme Council, a decision was adopted to allow the stakeholders to present their approaches concerning the procedure of adopting the Constitution.

Debates took place concerning the issue discussed in the next meeting of the Supreme Council. As a result of the debates, it was decided to vote on all the draft procedures of adopting the Constitution. However, none of these got the needed number of votes (2/3). It was considered necessary to continue the discussions over the issue, allowing the relevant stakeholders to hold additional political consultations.

The problem concerning the procedure of adopting the Constitution was solved through a compromise - by the constitutional law of March 27, 1995. Article 2 of this law stipulated that "The Republic of Armenia Constitution shall be adopted by the Supreme Council or through a referendum of the Republic of Armenia, upon the approval of the Supreme Council." Thus, the power to define the procedure of the adoption of the Constitution by its decision was conferred to the Supreme Council.

Following lengthy discussions and additional changes in the result of those discussions, the Supreme Council adopted the following

decision on “The Draft Constitution of the Republic of Armenia” on May 12, 1995:

1. To approve the Draft Constitution of the Republic of Armenia submitted by the RA Supreme Council’s Constitutional Committee.
2. To adopt the Republic of Armenia Constitution, hold a referendum on July 5, 1995, putting to vote the following question. “Do you agree to adopt the Republic of Armenia Constitution approved by the Supreme Council of the Republic of Armenia?”

On July 5, 1995, a constitutional referendum was held, during which 1,217,531 out of 2,189,804 RA citizens having the right to vote participated in it. The result was 828,370 of the participants answered “Yes,” and 349,271 answered “No.” Thirty-nine thousand four hundred forty ballots were recognized invalid. Thus, 68.04% of the citizens who participated in the referendum voted in favor of the adoption of the Constitution.

Specific Features of the Semi-Presidential Governance Model Established by the Constitution of 1995

The state governance system established by the Constitution of the Republic of Armenia in 1995 corresponds by its main features to the classical semi-presidential governance model of the 5th French Republic as stipulated in the Constitution of France.

The main features of all known models of semi-presidential governance are conditioned by the legal status and role of the president of the republic in the state governance system.

The following are the main features of all these models:

a) The President of the Republic has a primary mandate and is elected by direct vote of the citizens.

b) The President of the Republic is endowed with broad powers, acting as the head of the State, having vast powers in the sphere of the executive authorities, and acting as the supreme commander.

c) The highest body of the executive power is the Government that acts under the general supervision of the President. The Government is nominated by the President. However, it can operate only if trusted by the Parliament. The vote of the Parliament expressing distrust towards the Government leads either to the Government’s resignation or the dissolution of the Parliament.

Thus, for the analysis of the specific features of the governance model under discussion, the study of the functions and the concrete powers conferred to the President of the Republic is of great importance; and in the case of the Armenian semi-presidential model impartial examination is crucial. For the objective evaluation of the positive and negative features of that model, it is critical to observe those in the context of the semi-presidential governance specifics, based on the method of comparative analysis.

The main functions of the President of the Republic were set out in Article 49, and the powers in Article 55 of the RA Constitution.

It should be noted that the main features of the model under discussion are conditioned by the legal status of the President of the Republic, which is established constitutionally because it is the President who follows the implementation of the Constitution and ensures the regular operation of the legislative, executive and judicial powers. Interestingly, while presenting the advantages of the semi-presidential governance model, Michel Debré, one of the primary authors of the French Constitution of 1958, describes it as an "elected monarchy" or "republican monarchy."

For the objective evaluation of the status of the President of the Republic and, consequently, the model discussed, it is essential, perhaps, to analyze the concrete powers of the President with regard to the legislative, executive, and judicial powers.

Following clauses 1-3 of Article 55 of the Constitution, the President of the Republic had the following powers in the sphere of legislative power operation:

- deliver addresses to the people and the National Assembly;
- within twenty-one days of receipt, sign and promulgate the laws passed by the National Assembly; within this period, may return the law passed by the National Assembly to the latter with objections and recommendations, requesting for new deliberations; within five days, sign and promulgate the law re-adopted by the National Assembly;
- dissolve the National Assembly upon consultation with the Chairman of the National Assembly or the Prime Minister, and declare extraordinary elections. The extraordinary elections are held not earlier than 30 and no later than 40 days after the dissolution of the National Assembly. The President cannot dissolve the National Assembly during the last six months of his/her office.

From the group of powers above, the power of the President to dissolve the Parliament has been the most frequently and sharply criticized in the Armenian publications. Thus, in the opinion of V. Poghosyan and H. Tovmasyan, that power provided an opportunity always to resolve controversies in critical situations in favor of the President and by the dissolution of the Parliament. In the opinion of H. Kesoyan, this power of the President of the Republic to dissolve the National Assembly at any time upon the President's discretion undermines the Parliament's sustainability.

Of course, it isn't easy to argue against the fact that the power to dissolve the Parliament being in the hands of the President is a powerful means to influence the functioning of the Parliament. It should be noted that some authors considered the dissolution of Parliament as "a legitimized state revolution". However, in order to objectively assess the above-discussed power of the President in the context of the separation of powers, it is essential first of all to consider that the governance model operates in different ways, depending on whether the political forces adhering to the President do have a majority in the Parliament, or not. In those cases, when the political parties adhering to the President do not constitute a majority in the Parliament, a dichotomous, dualistic power structure is emerging, which in the conditions of political crises can lead to acute convulsion in the relations of the President, the Parliament and the Government. The main two subjects of these contradictions (the President and the National Assembly) have primary mandates. Thus, the contradictions may cause acute political crises. A vivid example of this is the acute crisis in the Russian Federation in September-October 1993, and the Kirgiz Republic, in 2010, after constitutional amendments. As A. Harutyunyan justly mentions, it is essential to stipulate constitutional measures for the resolution of such contradictions.

The President's formal and legally unrestricted right to dissolve Parliament at his discretion is aimed to create the conditions to overcome such contradictions and prevent such crises. However, the scope of discretion of the President of the Republic is strictly limited by political factors. The President may use the above power only when objective data indicate that the political power(s) adhering to him would receive a majority vote in the extraordinary elections. In post-Soviet states, the electorate, as a rule, is unstable, and sometime after parliamentary or presidential elections, the ratio of political parties can change dramatically.

Hence, in the mentioned cases, the dissolution of the Parliament can become a measure to match the balance of the forces in the Parliament with the new situation of the electorate.

It is noteworthy that in the Constitutions of many European countries, as a rule, the power of the President to dissolve the Parliament "upon discretion or upon specific conditions" is enshrined. Moreover, several Constitutions, in addition, also define the President's power to postpone the Parliament session or stop its operation at any time. Such a power of the President is stipulated by Article 40 of the Greek Constitution and by the Hungarian Constitution (clause 4, paragraph 22).

In the legal literature concerning the President-Executive Power relationship, more frequently, three groups of President's powers are highlighted:

- Appointment and dismissal of the Prime Minister and the Government,
- Influence over the operation of the Government, the Government members and other bodies of the executive power,
- Appointment and dismissal of high-ranking officials of executive power and other bodies.

Let us first analyze the powers of the President of the Republic in the government formation and resignation procedures. Following clause 4 of Article 55 of the Constitution, the President "shall appoint and dismiss the Prime Minister. Upon the recommendation of the Prime Minister, he/she appoints and dismisses the Government members". If commenting on this Article torn from the whole context, an impression is created that the President's power to appoint a Prime Minister is discretionary, that the President, upon discretion, can nominate any person who corresponds to the requirements of the respective post as defined by the legislation. However, part 1 of Article 74 of the Constitution also stipulates that the Government should submit to the newly elected National Assembly its action plan within 20 days after the elections or after its formation – seeking approval for the action plan and expression of confidence for the Government. Then, Part 5 of the same Article stipulates that if a decision is made to "express non-confidence" to the Government, the Prime Minister shall apply for the Government resignation to the President of the Republic. Article 55 of the Constitution stipulates that "in cases when the National Assembly expresses non-confidence towards the Government, within a term of 20

days, the President shall accept the Government's resignation, appoint a Prime Minister and form a Government." Thus, the complete analysis of the procedure of the Government formation unequivocally leads to the conclusion that the President's power to form Government is not at all of a discretionary nature. When exercising this power, the President is obliged to consider the majority opinion of the National Assembly. Otherwise, the National Assembly can express no confidence in the new Government, and the President will have to start the process of the government formation anew.

Of course, in such cases, the President can also realize his/her constitutional right to dissolve the Parliament. However, as we have already mentioned, exercising this power, too, is in fact limited for the President. The President may dissolve the National Assembly and call for new parliamentary elections only in the aforementioned conditions.

Thus, the comprehensive analysis of the constitutional regulations of the government formation certainly leads to the conclusion that in this process there is a certain balance constitutionally ensured between the powers of the President and the powers of the National Assembly. There is a mechanism of checks and balances in place in the relations of these two subjects that have primary mandates. Notably, in France, for example, where the Constitution set this procedure for the first time, there were several occasions when a "cohabitation" mode was established: taking into account the ratio of political parties in the Parliament, the President of the Republic had to form an oppositional government (1957, 1986, 1993) and cooperate with that government. Such a situation was also created in the Republic of Armenia, after the 1999 parliamentary elections.

As a matter of fact, the power of the President to dismiss the Prime Minister is discretionary. However, here one should consider that in this case, too, after the resignation of the Prime Minister, the President is limited by the ratio of the political forces in the Parliament. For the objective assessment of the President-Government relationship, one should also consider that the Government bears a political responsibility not only before the President but the Parliament as well. Based on Article 55 of the Constitution, when the National Assembly expresses no confidence in the Government, the President shall accept the Government's resignation in a 20-day term, appoint a Prime Minister and form a new Government.

In the sphere of the executive branch other powers were also vested in the President of the Republic. In accordance with Article 55 of the Constitution, the President shall also make appointments to public office positions in cases prescribed by the law (clause 5). Upon the Prime Minister's proposal, the President shall appoint and release the Prosecutor General (clause 9), act as the Commander-in-Chief of the armed forces, and appoint the High Command of the armed forces (clause 12).

As to the constitutional regulations for the judicial power, its formation and functioning, it should be noted that in the Republic of Armenia the judicial reforms were launched by force of the Constitution of 1995. Unlike the systems of the legislative and executive powers, where substantial reforms were made through the adoption of laws prior to the adoption of the Constitution, the judicial system inherited from the Soviet times continued its operation in our country.

During the constitutional regulation of the relations in the sphere of the judicial power, all international and legal principles of human rights and jus cogens norms were included in the Republic of Armenia Constitution; an attempt was made to create a judicial system in line with a democratic state that would ensure the efficient exercise of those rights.

Essential principles for the organization of the judicial power in a democratic state also were reflected in the Constitution. In Armenia justice shall be administered solely by the courts in compliance with the Constitution and the laws (Article 91). The judge and the members of the Constitutional Court shall be irremovable, and their powers shall be terminated only in the cases and in the manner prescribed by the Constitution and the law (Article 96). When administering justice, judges and members of the Constitutional Court shall be independent and shall only be guided by the Constitution and the law (Article 97).

Article 92 of the Constitution defined the structure of the new judicial system – courts of the first instance, courts of appeal, and the Court of Cassation. In this respect, the creation of an appellate court is of great importance. It should be noted that in many post-Soviet countries, no courts of appeal were established during that period. For example, in the Russian Federation, the creation of appellate courts was not deemed necessary based on financial considerations. Meanwhile, according to the law, the right of each person to have a review of the verdict by

a higher-level court is one of the essential principles of a legitimate democratic state.

It was established that in the Republic of Armenia also other courts function as prescribed by the laws. At the same time, the creation of extraordinary courts was banned.

Considering that the modern legitimate state cannot exist without efficient systems of constitutional supervision, the establishment of the constitutional foundations for the creation of the Constitutional Court was deemed necessary. In particular, its composition and scope of powers were defined.

In addition, the constitutional bases for the creation of the Council of Justice were defined: its composition, the formation procedure and scope of powers.

Thus, by the Constitution of 1995, all the necessary constitutional prerequisites were created to form an independent judicial system in line with democratic principles. Therefore, V. Nazaryan was correct to note that the essence of the judicial reforms to be implemented in the Republic of Armenia was reflected in a condensed form in the Constitution.

The President of the Republic had vast powers in the judicial sphere. In line with Article 94 of the Constitution, he was the guarantor of the independence of the judiciary.

In this sphere, the powers of the President were discretionary. Thus, the President shall appoint four out of nine members of the Constitutional court. If, after the formation of the court, no Chairman of the Constitutional Court is appointed within 30 days by the National Assembly, the RA President shall appoint the Chairman of the Constitutional Court, too.

It is the President who heads the Council of Justice (currently – the Supreme Judicial Council) and appoints its members. If the member judges were appointed by a secret ballot from the three candidates for each post, the President had a discretionary power to appoint the two legal scholar members of the Council of Justice.

Additionally, the President of the Republic shall approve the annual lists of candidates of judges and the lists of their professional advancement compiled by the Council of Justice, which shall be used as a basis for appointments. Upon the recommendation of the Council of Justice, he shall nominate the candidates for the chairman of the court of cassation, chairpersons and judges of its chambers, chairpersons and judges to the appeal courts, first instance courts, and specialized courts.

He/she can terminate the mandate of the judges, agree to their detention, involve them as accused, or institute a court proceeding to subject them to administrative liability. Upon the recommendation of the Council of Justice, the President grants qualification grades to the judges.

However, one should not agree with those authors who are distorting the actual situation, stating that "It turns out that the President of the Republic advises himself through his own Council and presents recommendations on appointing or dismissing judges." Firstly, the decisions on personnel issues were adopted by secret ballot in the Council of Justice. Also, traditionally the President of the Republic rarely participated in the Council of Justice sittings, and those were chaired either by the General Prosecutor or by the Minister of Justice. The President's powers were not discretionary regarding the solution of personnel-related issues for the judicial power. In practice, when exercising those powers, the President was limited by the decisions of the Council of Justice.

Concluding the above, it could be noted that the President of the Republic had a pivotal role in the state governance model discussed. At the same time, this model corresponded to the main principles of a legitimate democratic state and was endowed with particular features of that state. This governance model proved viable in some critical situations of the transition period – resignation of the acting President of the Republic, a situation of cohabitation following the parliamentary elections of 1998, when the President in office, by his own formulation, found himself in the status of an observer, not to mention the tragedy that happened in the Parliament on October 27, 1999. All these situations were overcome without constitutional crises.

The RA Constitution of 1995 and the state governance model established in practice proved their viability and effectiveness in the socio-political conditions of the time.

The changes of this governance system due to the "constitutional amendments" made in 2005 were not substantial. However, in 2015, unfortunately, new "constitutional amendments" were introduced, resulting in a shift from the semi-presidential model to the parliamentary one.

The "founding fathers" of the constitutional amendments of 2015 ignored the fact that given the current conditions in the Republic of Armenia related to the political situation and the state of the political parties, a transition to parliamentary governance model is fraught

with dangerous consequences. The presence of various "medium and lightweight" parties and the absence of powerful parties make it impossible to ensure the stable functioning of the parliamentary majority, hence – of the Parliament and of the entire state system. Whereas, the vital precondition for the efficient functioning of complex systems, including the state power, is their stability. It is worth noting that the "Concept of constitutional reforms of the Republic of Armenia" authored by the specialized committee of constitutional amendments adjacent to the President, the terms "stability" and "instability" are repeated very frequently (pages 13, 27, 32-33, etc.).

However, the very concept of "stability" was distorted by the same committee. Part 3 of Article 89 of the "reformed" Constitution of 2015 stipulated that "the Electoral Code guarantees the formation of a stable parliamentary majority. If a stable parliamentary majority is not formed as a result of the election or through the formation of a political coalition, the second round of elections may be held". It is evident from the content of these provisions that the authors of the "constitutional reforms" in Armenia perceive the stable majority as a certain minimum number of MPs included in the majority, that is, a quantitative feature. The term "stability", on the other hand, is defined as the ability of a system to act in a timely manner without changing its own structure, and to maintain balance.

Therefore, guaranteeing the stability of the parliamentary majority (and of the Parliament) is beyond the scope of the Electoral Code regulation. The issue of ensuring the stability of the majority arises already during the operation of the Parliament, and the norms aimed at ensuring stability can and should be enshrined not in the Electoral Code but the Constitution and the Rules of Procedure of the National Assembly.

Moreover, the stability of the parliamentary majority cannot be ensured at all only by the use of legal regulatory measures. Legal regulation can only, to some extent, contribute to raising the level of stability of the parliamentary majority (and thus of the Parliament). The goal of ensuring stability by purely legal measures can be seen as an outgrowth of legal fetishism.

The degree of stability of the parliamentary majority depends on the ratio of political forces in the country, the degree of maturity of the party system, and the quality of the civil society. Historical experience unequivocally proves that the parliaments of the parliamentary states,

where there is a clear two-party system, are more stable. However, even in that case, the need for ensuring the stability of the parliamentary majority does not disappear; legal regulation measures are applied, which to some extent contribute to the increase of the level of stability. In the recent decades, the number of constitutional provisions aimed at strengthening the stability of parliaments and governments, prevention of populism in parliamentary debates, and prevention of demagoguery has increased. In particular, the frequency of the sittings of parliaments is reduced, the legislative opportunities of the MPs to propose amendments are limited, procedural norms are fixed for the increase of the political responsibility of the MPs, etc. To reduce the degree of political instability, additional powers are vested in the head of state.

It should be noted that the RA Constitution as revised in 2015 does not enshrine any provision aimed at strengthening the stability of the Parliament, and consequently – of the entire state power system. By consciously or unconsciously distorting the content of the term "stability", this issue was simply "removed" from the agenda.

Yet, we do not have objective conditions for the effective functioning of the parliamentary model of governance. As V. Gerje duly noted, a parliamentary system of governance is "the transfer of state power to the parties". Meanwhile, experience shows that in our country, only the parties in power or on the "rise" of the revolutionary wave are temporarily "strengthened".

Therefore, undoubtedly there is a need and an urgency to quickly reform the Constitution "reformed" in 2015 and to return to the semi-presidential governance system.

THE REPUBLIC OF ARMENIA IN THE FAMILY OF SOVEREIGN STATES

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International Legal Standing of Soviet Armenia within the USSR

Although Soviet Armenia, as well as the rest of the USSR republics had, in conformity with the USSR and republican constitutions, certain rights in the foreign policy sector, it cannot be maintained that prior to the declaration of the Third Republic, the Armenian State indeed had international legal standing in this area.

The legal basis for the ASSR in the area of foreign relations were the legal norms stipulated in Article 74 of the 1978 Constitution of the USSR, and Articles 73 and 80 of the same Constitution.

In conformity with Article 73 of the USSR Constitution, the USSR competence vested in its bodies of state power and public administration, applied to "Representing the USSR in international relations: the USSR relations with foreign states and international organizations, defining and coordinating the overall procedure for the USSR republics vis-a-vis one another, foreign trade and other types of economic activity on the basis of state monopoly" (paragraph 10). Article 80 stated: "A USSR republic has a right to establish relations with foreign states, conclude treaties with them and exchange diplomatic and consular representatives with them, participate in the activities of international organizations."

Article 74 of the ASSR Constitution stipulated: "The Republic of Armenia has a right to establish relations with foreign states, conclude treaties with them and exchange diplomatic and consular representatives, participate in the activities of international organizations."

The above rights conferred on the USSR republics were formal: it was a generally acknowledged fact that both Soviet Armenia and other

USSR republics, despite the above constitutional norms, had no practical opportunities to participate in foreign relations.

There were certain peculiarities in the situation of the Ukrainian and Belarussian Soviet Republics. It is known that the said republics were the UN founding members, something that was indeed strange since the latter by their status were no different from the other Union republics.

According to the Soviet explanation, Ukraine and Belarus acquired the rights to become UN members due to their great input towards the victory over Germany. This explanation was not well-justified, since all the Soviet republics had invaluable input into the defeat of Germany. Moreover, whereas the fact that the Russian Soviet Federative Socialist Republic did not become a UN founding member could be accounted for by the fact that the world normally identified the RSFSR with the USSR, the input of the rest of the Soviet republics in the victory over Germany could in no way be renounced.

In fact, Ukraine and Belarus became UN founding members due to diplomatic manipulations of the powerful states of the time. The very first steps directed at founding the UN, demonstrated that the interests of the USSR, on the one hand, and the USA and the UK, on the other, were largely controversial. In order for the USSR to have considerable presence in the UN, it believed that all the USSR republics were to become UN founding, independent members, whereas the USA and the UK believed that they did not possess the qualities of sovereign statehood.

With a view to neutralizing this position, on January 27, 1944, the regular plenary of the Central Committee of the Armenian Communist Party examined the report of the USSR Foreign Minister V. M. Molotov “On Reorganizing the Defense People’s Committee and Foreign Affairs People’s Committee from USSR into Republican”.

The USSR Supreme Council urgently adopted two laws: “On the Formation of Military Units of the Union Republics” and “On Conferring Powers on the Union Republics in the Foreign Relations Sector”.

On the basis of this decision of the Party and the above legislative framework, military units were formed in all the Union republics, and they were endowed with powers in the foreign relations sector. Conferring such powers on the Union republics aimed at creating an impression that the latter had sufficient sovereignty to have a right to participate in the founding of the UN.

In reality, the USSR failed to persuade the USA and the UK: the latter were categorically against the inclusion of the Union republics other than Ukraine and Belarus into the UN.

Since the above powers were conferred on the Union republics in the light of the above political considerations, these powers were preserved until 1946.

There is no doubt that profound transformations occurred in Armenia during the Soviet period, influencing all aspects of public life. There was an unprecedented rise in science, culture, education and health care. Having almost no industry, Armenia created over 700 modern industrial enterprises. However, despite these achievements, Soviet Armenia had zero international legal standing.

The Collapse of the USSR and the Declaration of Independence of Armenia

The socio-economic and political causes of the collapse of the USSR are outside the scope of this study; nevertheless, it is important to note that if the premises of the collapse of the USSR were developed in the second half of the 1980s as a result of the policy of “Perestroika” undertaken by M. Gorbachev, then, undoubtedly, the main cause of the final collapse of the Soviet empire was the fair aspiration of the Union republics to have greater political power and greater economic independence in the “rebuilt” Soviet Union than those prescribed by the USSR Constitution.

The policy of “Perestroika” finally destroyed the USSR, the largest empire of the time, in several stages. The legal basis of the collapse of the Soviet Union was laid down with the Belovezha Accords signed on December 8, 1991. This agreement signed by Belarus, Russian Federation (RSFSR) and Ukraine noted that the USSR terminated its existence as an entity of international law and as a political reality. The agreement declared the Commonwealth of Independent States (CIS) as a new international institute coordinating the collaboration of former Soviet republics.

The next stage of the collapse of the USSR was the December 21, 1991 Alma-Ata Declaration stipulating the goals and principles of the CIS. The Declaration reasserted the Belovezha Accords, stating that by the founding of the CIS the USSR shall terminate its existence.

On December 25, 1991 M. Gorbachev resigned from the post of the USSR Chairman.

On December 26, 1991, a Declaration on terminating the existence of the Soviet Union as a state was adopted. This was a final legal termination of the existence of the Union as a state and the stage of the development of legal and practical foundations of independence of the former Soviet republics started.

The Declaration of Independence of Armenia

The collapse of the USSR was, without a doubt, one of the most important geopolitical events of the 20th Century, which, inter alia, enabled the population of the former Soviet republics, including the Armenian people, to effectuate their age-old dream of building an independent state.

The idea of having an independent state was attractive and inspiring. However, its practical implementation was full of hardships and obstacles. In the context of the aforesaid, it can confidently be maintained that the collective will and thought of our people, the intelligence of the political leadership of the country and the personal stance of Levon Ter-Petrossian, First President of the Republic of Armenia, contributed greatly to the building of the sovereign Republic of Armenia and escaping the debris of the collapsed Soviet Union with comparatively few losses.

Soviet Armenia was the only Union republic, which effectuated its process of independence fully adhering to the necessary legal requirements, including the legislative requirements of the Soviet Union pertaining to the implementation of the process of independence.

First, on August 23, 1990, the ASSR Supreme Council in its first session adopted the Declaration of Independence of Armenia, which set forth the relevant legal norms for the reform of the State and law system of the country, organization of economic life, formation of foreign relations and building of a sovereign state.

The second paragraph of the Declaration stipulated that only the Constitution and the laws of the Republic of Armenia applied in the territory of the Republic of Armenia.

Later, on September 21, 1991, a Referendum of Independence was held with the following question put to the vote: “Do you agree that the Republic of Armenia should be an independent, democratic state outside

the USSR?" 99.5% of voters participated in the referendum, of which 95% voted for the Declaration of Independence.

As a result of the referendum on September 23, 1991, the Supreme Council of Armenia, in conformity with the Declaration of Independence of Armenia and relying on human rights and the jus cogens international norms of human rights and free self-determination of nations, confirmed the secession of the Republic from the USSR.

It should be noted that the leadership of Armenia demonstrated great political insight in terms of implementing the entire legislative process of secession on the basis of not only the USSR laws but also international law. This was an important achievement in view of the fact that if prior to the start of the process of the USSR's collapse the mutual relations of the Union republics, as well as the relations between the latter and the Union federal bodies were regulated exclusively by the Constitution and laws of the USSR, both the Belovezha Accords and the Alma-Ata Declaration transferred the relations of the Union republics to the sphere of international law.

Perhaps this was the reason why on August 5, 1991, Levon Ter-Petrossian, Chairman of the Supreme Council of the Republic of Armenia, sent a letter to Anatoli Lukyanov, Chairman of the USSR Supreme Council, with the following wording: "In conformity with the Decision of the Supreme Council of the Republic of Armenia dated March 1, 1991, on September 21, 1991 a referendum will be held in Armenia to vote on the question of seceding from the USSR. The date for holding the referendum, as well as the rest of the administrative questions were determined strictly in line with the requirements of the USSR legislation. Hereby we request you to resolve in conformity with the USSR legislation the issue of the presence of the authorized representatives of the USSR, the union and autonomous republics, and autonomous units as observers, as well as invite the United Nations representatives".

The Declaration of Independence is a legal and political document of historical significance, which predetermined the strategic development directions of the state and law systems of the Republic of Armenia.

As with any newly independent state, in parallel to the organization of its internal life, the Republic of Armenia started the process of building international legal relations. It should be noted that with a view to acquiring a reputation of a reliable partner in international relations, it is essential, inter alia, to have a stable democratic society internally. In this regard

it was essential to have a provision in the preamble of this document, according to which the Armenian people by declaring the launch of the process of establishing independent statehood have as their goal the founding of a democratic, legal society.

In order to become a full member of the international family of states, the Declaration stipulated the following essential prerequisites. First, it is emphasized in the preamble that the basis for the adoption of the Declaration was "the united will of the people," "the principles of the Universal Declaration of Human Rights" and "the generally recognized norms of international law". It then stipulated that the former ASSR, which is renamed into the Republic of Armenia, is endowed with the necessary sovereignty for acting as a legal entity of international law.

Its elements were reflected in the Declaration with the following wording:

- "Armenia is a sovereign state, and only the Constitution and laws of the Republic of Armenia apply here" (paragraph 2),
- "The right to act in the name of the people of the Republic of Armenia belongs exclusively to the Supreme Council of the Republic of Armenia" (paragraph 3),
- "As an entity of international law, the Republic of Armenia implements independent foreign policy" paragraph 6).

As a cornerstone of its foreign policy, the Declaration stipulated that the Republic of Armenia supports the cause of international recognition of the 1915 Genocide of Armenians in Western Armenia and Ottoman Turkey (paragraph 11).

As stipulated in paragraph 12 of the Declaration, this document serves as a basis for drafting the Constitution of the Republic of Armenia, and for amendments to the Constitution, as well as for the functioning of the state bodies, and drafting of the new legislation of the State.

If by following the Declaration of Independence, the Republic of Armenia could in specific cases rely on the legislation of Soviet Armenia, it had to start its international legal relations from scratch.

The Supreme Council elected on May 2, 1990, ratified 151 international treaties in the course of its operation. It should be noted that included among them were international legal instruments in the area of human rights and fundamental freedoms, such as the 1948 Universal Declaration of Human Rights, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant

on Civil and Political Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and other important international human rights instruments.

It should be noted that joining the international human rights treaties was not an end in itself. First, this was an essential step to assure the international community that the newly independent Republic of Armenia aspired to build statehood inter alia in conformity with the international standards of human rights and fundamental freedoms, and, second, joining the international human rights treaties was essential with a view to implementing their progressive regulatory norms in the RA legislation.

Certainly, an essential prerequisite for joining the international family of states was becoming a UN member. The Charter of the United Nations became effective for the Republic of Armenia on March 2, 1992. Becoming a member of this organization was important in that it was an opportunity for Armenia to participate, inter alia, in the political and legal processes spearheaded by the UN, as well as resort to the protection of the international mechanisms foreseen by the UN Charter and guaranteeing the security of the states.

Following the declaration of its independence the Republic of Armenia became a member of a number of universal and regional international organizations.

It is our belief that instrumental for guaranteeing democracy and human rights in Armenia, as well as for the reform of the state bodies was the Council of Europe membership and recognition of the jurisdiction of the European Court of Human Rights.

On January 25, 2001, becoming a member of the Council of Europe, the Republic of Armenia undertook to radically reform its national legislation in the area of human rights and fundamental freedoms, and fully harmonize it with the requirements of the European Convention of Human Rights and its Protocols. Such requirements, as the abolition of the death penalty or making provisions for alternative military service were not welcomed by our society. Nevertheless, the CoE membership enabled the RA to substantially reform its national legislation in the area of human rights. Moreover, since the European Convention of Human Rights and the Protocols therein are the constituent elements of the RA legal system, the right to apply to the European Court of Human Rights under the Convention was an important safeguard that the RA courts

would start administering justice in line with the European standards of human rights and fundamental freedoms.

It would not be true to insist that since independence the work in the direction of building the state in our country proceeded smoothly and effectively. However, the right to determine one's own life and faith independently and without any external unlawful interference, is not only an individual right but the right of every nation and people, the exercise of which can be guaranteed by means of integrating into the international family of states.

An important element of sovereignty is the independent implementation of foreign policy. The UN Charter stipulates sufficient guarantees in this regard. However, as any other state, the Republic of Armenia, too, will have to implement reasonable internal policy to be able to fully develop economic and social life, favorable external conditions, as well as neutralize external dangers.

This said, state sovereignty as a quality of the state does not depend on good faith or non-good faith fulfillment of international treaty obligations, national legislation, and on the domestic political regime. However, as demonstrated by international practice, the international family of states treats those states unfavorably, and even applies sanctions to them, if they abuse state sovereignty and infringe human rights and international legal obligations in respect of other states.

In summary, it should be noted that by declaring the Republic of Armenia's independence, the Armenian people finally fulfilled their ancient dream of having their own state, which as a full member of the international family of states, is sovereign and independently determines all the vital questions related to its domestic life and foreign relations.

INTRODUCTION OF THE MULTI-PARTY SYSTEM



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An Inherited Reality

The Soviet Union was a one-party state. Article 6 of the USSR Constitution stipulated the status of the sole party – the Communist Party – that operated in the State: "The force leading and guiding the Soviet society, the heart of the political system and all state and non-governmental organizations thereof is the Communist Party of the Soviet Union. The CPSU exists for the people and serves the people. Armed with the doctrine of Marxist-Leninism, the Communist Party determines the general vision of societal development, the internal and external political line of the USSR, governs the huge creative activity of the Soviet people and provides the scientific basis for the people's fight for the victory of the communism."[1]

Not only was this a monopoly to rule but something much more; this meant that the Communist Party was placed above the law. And this was the case in practice. There were two parallel systems of state power from top to bottom; the real one – the organizational structures of the Communist Party - and the second, the formal one – the constitutional bodies – the Soviets. Although the Soviets were formed entirely from among the members of the same party and controlled by the latter, in practice they were deprived of any possibility to act autonomously and decide on even the smallest matters. In other words, it was not the Communist Party that possessed the whole state power but its apparatus.

Naturally, there could be no word about the right to existence of any other political party. There could be no word about any other ideology than communist. All employment or other references provided

[1] Constitution of the Union of Soviet Socialist Republics (Basic Law), Yerevan, 1989, p. 7.

to individuals (a very common document in those times) contained a mandatory line on the political profile of that person. If such a document did not contain the record “politically stable,” s/he could not have any place anywhere with it. The heaviest allegation for someone was to be described as “politically active” capable of causing him/her a criminal prosecution and punishment.

With a view to keeping the main pillar of Soviet totalitarianism – the one-party system – intact, concrete mechanisms were employed to prevent the birth of any dissent with the only communist ideology. The most powerful and weighty structural units within the system of power from top to bottom were the ideological units. In the power hierarchy next after the first figures of the central, republican and autonomous units came the officials in charge of the ideological units – the second secretaries. The ideological sector was a meticulously designed huge system, which was primary and the costliest after the military sector. Those in charge of this sector used to oversee the educational, literary, cultural and other sectors, and all the mass media. The most powerful structure of the State – the State Security Committee (KGB-SSC) reported to the party, and its main function was ensuring ideological security by detecting dissidents within the State.

The goal of the state ideology and the preservation of the one-party system was to reduce to a minimum the national peculiarities, to create a new “Soviet people” (homo sovieticus). The upbringing of anyone “building communism” started from preschool institutions and continued throughout the whole process of education. The internal life of educational institutions reminded me of military units. Any child entering school was forced to become a member of the organization – octobrist, pioneer, communyouth (Komsomol), consecutively. All curricula, textbooks, handbooks, etc. were designed to the fullest extent possible to enforce the sole communist ideology. The same continued in higher education institutions, including in the workplace in the form of “political classes”. Literature, art, cinema, radio, television and the press all served this goal.

The organizational structure of the Communist Party was based not only on the territorial but also industrial principle. The Communist party had organizations in all settlements, institutions, enterprises, state bodies, military units, etc. without any exception. Parallel to it, the party operated its youth structures – the Union of Communist Youth. They, too, were

deeply engaged in the propaganda of the communist ideology; fighting against dissent, and enforcing the "political line" of the latter.

This was a mechanism excluding real democratic political life. And so it would stay, regardless of the ideology this mechanism propagated or served. It goes without saying that the system was to serve as the first barrier to any democratic principle. It goes without saying that its elimination and dismantling would be set as a goal in the agenda of any people's movement started in the USSR since 1988. And it also goes without saying that the primary and the most radical reform of the post-communist newly independent states would be the reform of this sector through the introduction of a multi-party system.

The first national democratic movement in the USSR started in February 1988 in Armenia and in the first half of the year it was the only one in the whole Soviet Union.

Reflecting the Problem in the Programs of the Armenian National Movement, Efforts Directed to the Solution thereof by the Movement

Half a year after the start of the Karabagh or Armenian People's Movement, on August 19, 1988 the Armenian Committee of the Karabagh Movement published the draft program of the Armenian National Movement (ANM), which was the organization of the Movement. At the time no objective for coming to power or power change was set. The resolution of the question of Nagorno Karabagh was the main issue pursued in the framework, including the legal system of the USSR. The published document transformed the ONLY political problem of Nagorno Karabagh as the MAIN, by anchoring it in the well-known system of democratic problems. Included among the above democratic problems was rejection of the existing one-party system and setting the goal of creating a multi-party one, as reflected in the provision below: "The supreme power for state formation is the will of the people manifested in the national referenda and the resolutions of a representative parliament established as a result of free elections."[2]

[2] 25th Anniversary of the Independence of the Republic of Armenia, collection of documents, authors Babken Ararkstyan, Ashot Sargsyan, Gohar Khachatryan, Yerevan, 2016, p. 14.

The implementation of this provision was unimaginable under the conditions of a one-party system and the "leading role" of the party provided by the Constitution.

A lot changed in the following year. The qualitative changes having occurred in the political life of the USSR and Armenia created favorable conditions for tabling the issue of independence as the sole solution of all problems, including the priority issue of Karabagh. The program of the Armenian National Movement was revised, and the relevant issue was reflected in the text adopted by the first Congress (from November 4-6, 1989) as follows: "The State shall be governed by the democratic principles anchored in social justice, freedom of speech, the press and conscience, plurality of the forms of ownership, multi-partyism, exclusion of the leading role of any party, freedom of all non-governmental and political organizations"[3].

There was thus a necessity to remove Article 6 of the Constitution. In practice, there were certain achievements in this regard. In the autumn of 1988 the ANM succeeded in winning seats for alternative candidates in the partial elections for the Armenian Supreme Council. If this success was repeated in the general elections for the Supreme Council and a non-communist parliament was formed, the situation would be absurd. The supreme state power foreseen by the Constitution formed from totally different political forces would be forced under another Constitutional article to be governed by the decisions adopted by the bodies of the Communist Party.

The problem, then, was at the level of the Union and concerned other republics within the Union, prompting the democratic forces everywhere to fight for achieving the same goal – removal of Article 6 of the Constitution.[4]

The issue was put forward by the ANM as a legislative initiative before the Armenian Supreme Council on December 4, 1989. A document headed "Declaration on the Implementation of Radical Democratic Reforms in Armenia" was presented in the session of the ASSR Supreme Council. According to it, one of the seven actions submitted for the discussion and approval of the session was worded as follows: "***Remove from the***

[3] See A. Sargsyan, Restoration of the Independence of Armenia, 1990-1991, Yerevan, Antares, 2020, p. 484, (See the full document ibid., p. 483-491).

[4] In Russia a pioneer of this fight was the well-known human rights defender Andrey Sakharov (See ibid., p. 69-70), also in Сахаров А. Д., Выступление на сьезде народных депутатов 09 июня 1989г. https://www.youtube.com/watch?v=LGnqZ8HPv0g:

Constitution of the Republic Article 6 concerning the governing role of the Communist Party. Free operation of non-governmental organizations, including political parties, is permitted in Armenia"[5].

The communist Supreme Council naturally declined to adopt such a document, and the goals set in it were brought to life in the months to follow either under the pressure of the Movement and upon the demands of the situation or in the summer by the new Supreme Council that came to replace the communist one.

This issue of utmost importance from the point of view of dismantling the old political system and the democratization of the country was among the priorities in the electoral program of the Armenian National Movement running for elections to the ASSR Supreme Council to be held on May 20, 1990. It was formulated as follows under the heading of the "depoliticization of public life":

- Create equal legal conditions for the activities of all political parties, non-governmental-political organizations;
- Proscribe by law membership in a political party for office holders in administrative and judicial bodies;
- Proscribe the activities of political, non-governmental-political organizations in the Government and other public bodies and institutions;
- Seize from the Armenian Communist Party the part of its property that was acquired at the expense of state and public rather than party funds."[6]

The Implementation of Political Reforms in the First Year of the Power of the ANM

The Armenian National Movement won parliamentary elections held from May-June of 1990. On August 4, Levon Ter-Petrossian, Leader of the ANM, was elected as Chairman of the ASSR Supreme Council. Immediately afterwards the Parliament started work on the main document, which was the Declaration of Independence of the Republic of Armenia, adopted unanimously on August 23, 1990. It summarized the main programmatic provisions of the Armenian National Movement. Paragraph 9 of the Declaration proclaimed: "The Republic of Armenia ensures in its

[5] See the full document in Selected Works by L. Ter-Petrossian, Yerevan, 2006, pp. 65-67.
[6] "Hayk", 13/05/1990.

territory freedom of speech, the separation of the legislative, executive and judicial powers, a multi-party system, equality of parties before law, depoliticization of the law enforcement and the armed forces."[7]

It was this provision that was to form the basis of the laws and decisions that would fundamentally change the political life in Armenia by placing it on the road to democratic transition.

There were elements of a multi-party system in Armenia from 1988-1990. It is true that under the laws of the Soviets they were officially registered (if registered) as non-governmental organizations. However, they essentially operated as political forces. This was how the organization of the Karabagh or Armenian National Movement – the ANM – operated, which was founded in the summer of 1988 and only after a lengthy struggle did it succeed in being registered as a non-governmental organization on November 1, 1989 in the wake of its first congress. There were other small organizations that did not have a major role in political life. Many other smaller organizations were created aspiring to engage in politics since the summer of 1989 (after the release of the members of the "Karabagh" Committee since there was no big danger in that). In the spring of 1990, there were not more than 50. However, the main parties running for elections to the SC on May 20 of the same year were the ANM and the Communist Party.

There was no law in the Soviets to regulate the activities of political organizations – the political parties. And the main reason for this was that in the USSR there was only one party (the word was not even used in the plural and was fully identical to the word "communist"), which, as has already been noted, was above the law by the Constitution. In other words, this most serious sphere of political life of the State was to be regulated by law from scratch.

The Supreme Council of Armenia, on the basis of the relevant provision of the Declaration of Independence, and by its decision adopted on November 5, 1990, depoliticized the state bodies, state enterprises, institutions, organizations, educational establishments, military units in the Republic of Armenia by terminating the activities of party and non-governmental-political organizations in them.[8]

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7 25th Anniversary of the Independence of the Republic of Armenia, p. 40.

8 Bulletin of the RA SC, 1990, 21, Art. 405.

The legal basis for the multi-party system was introduced on February 26, 1991 by the Law On Non-Governmental-Political Organizations.[9]

Article 1 of the Law defined the concept of the "non-governmental-political organization": "a non-governmental political organization is a voluntary association of the citizens of the Republic of Armenia of voting age that has a program, a statute and participates in the formation of the bodies of the state power through elections, their activities, as well as the public, political and cultural life of the Republic."

In other words, political parties became the key actors in the formation of the bodies of state power through elections.

The law stipulated the provision from the above SC decision, according to which the parties were prohibited from opening structures within state bodies, as well as institutions, enterprises, organizations, educational establishments. In other words, the law stipulated that:

a) parties were allowed to form their structures only on the basis of the territorial principle;

b) only the citizens of the Republic of Armenia could become members of a political party operating in Armenia.

The law guaranteed equality of all political parties before law and set equal conditions for their formation, activities and development. The minimum necessary and common requirements and conditions were set for the consolidation and operation of political organizations, the possibility for a normal political struggle for the consolidation of democracy was reinforced.

It was a significant achievement that the law prescribed that state bodies were apolitical, something which ANM had been pursuing for a lengthy period of time. Employees and public servants within the bodies of justice, the interior, national security, procuracy, the customs service, the state arbitration, the armed forces in the period of service in these bodies could not be members of any political party.[10]

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[9] Bulletin of the RA SC, 1991, 4, Art. 73. At the material time the legislature found it pertinent to call the political parties "non-governmental- political organizations." One of the reasons for this was the negative public perception of the word "party" during the last decade of Soviet reality. In this text we will nevertheless use the word "party."

[10] The majority of detachments defending the borders of Armenia and engaged in the self-defence movementof Nagorno Karabagh were formed by the ANM structures. On the basis of this requirement of the law the fighters in these detachments terminated their membership within the ANM. Meanwhile, some other parties, which too had armed detachments failed to follow this rule. This is the reason why there were no publications containing the expression "the ANM detachments" in the press of those times, while there are mentions of detachments with the names of other parties.

A separate provision stipulated that “the governing body of a non-governmental-political organization must be based in the territory of the Republic of Armenia.” This requirement specifically concerned the Communist Party, which was a CPSU branch and was governed from Moscow. But not only, it also concerned the Diaspora parties, which were creating (recruiting) organizations in Armenia.

The parties were prohibited to:

- be governed by organizations/state bodies located outside the territory of Armenia, or to become part of the organizational structure of these organizations;
- initiate a violent overthrow of the state and the political order of the state power in the Republic of Armenia, violence and calls for violence in respect of the citizens and organizations, cooperation with such organizations;
- incite hostility between national, racial, religious and social groups;
- receive financial and material assistance from state bodies, institutions, etc. located outside the Republic of Armenia;
- establish organizational structures in state bodies, as well as institutions, enterprises and educational establishments;
- have entities engaged in financial and economic activity, except for cases foreseen by this law;
- engage in other activities breaching the law.

The framework of the offered opportunities and the set barriers was absolutely sufficient for a robust and regular political life and for equal conditions for robust competition for the consolidation of democracy. Furthermore, they were also important in the light of the considerations of state sovereignty and national security. It was clearly logical that a political force that would come to power with financial support from a headquarters in another state, would not be able to act independently and autonomously and had to adapt its programs and activities with the dictates and requirements of those financially supporting it. It would then be impossible to speak about independent statehood, nor democracy, nor independent policy. These requirements were more than ordinary for any state with traditions of independence, real political life and democracy to the extent that they could even not have been reflected in the relevant law. It was impossible to proceed otherwise in Armenia.

Quite intense and lengthy discussions were held on the above provisions of the law. The Communist Party governed and funded by Moscow, and receiving political orders therefrom, demonstrated fierce resistance. It believed that the ban on having political organizations within institutions and enterprises was against it. However, this accusation was absolutely groundless. The "Karabagh" subcommittees created from the very first weeks of the 1988 Movement, and later the initial ANM structures created on the basis thereof, were also established on the industrial basis as a counterweight to the ruling communist structures and operated in all institutions, organizations and settlements in parallel to the latter. Moreover, if the initial institutional organizations of the Communist Party were rapidly degenerating, the ANM organizations, especially after its victory in the 1990 elections to the Supreme Council were getting bigger and more powerful, which meant that these decisions created more "inconveniences" for the ANM. However, the issue had bigger significance as a cornerstone of democracy, than any party interest, and the new authorities resolved it by law.[11]

The Communist Party was not the only party against. The "traditional parties" and a number of MPs under their influence were also resisting the change by pointing to "our national peculiarities" – the fact of having the Diaspora and the Diaspora parties. It was believed that this would undermine the rights of Diaspora Armenians and act as a barrier to the "return" to Armenia of Diasporan parties. The latter also endeavored to operate as "pan-national" territorial organizations in Armenia with headquarters abroad but with the same status as the Armenian parties.

In other words, the same fake political perceptions, fake nationalism, and reversed political value system – nation and state, artificial polarity between Armenians and Armenian citizens, absence of political and state mentality, existed. Meanwhile, the requirements of this law were the minimum necessary and well-known preconditions of independent statehood, national security, autonomous political life, consolidation of democracy.[12]

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[11] On April 23, Gorbachyov signed a decree by which these legal provisions were proclaimed as contradicting the USSR legislation and suspended (See the USSR Bulletin, 1991, 18, Art. 530), however, they continued to apply in the Republic of Armenia.

[12] The Armenian Revolutionary Federation struggled actively against this law. If the Ramkavars and the Hnchaks reconciled themselves with the law and worked to meet the requirements thereof, the ARF never did. It continued to believe that "Instead of introducing a multi-party system, a law was enforced to restrict all parties created after 1988 and before it, including the parties with a hundred-year history with administrative barriers" (" Droshak" 19/06/1991).

In order to provide equal conditions for the political activity of the parties it was necessary to take yet another important step, which again had been reflected in the ANM program. The Communist Party had gathered unlimited financial resources and wealth in the past 70 years. Moreover, the party had gathered the majority of this wealth not from legitimate party contributions but from the people's work. Without nationalizing these resources, it would be absurd to speak about equal competitive conditions for political parties.

On April 17, 1991, the Supreme Council of the Republic of Armenia adopted the following decision: "Nationalize the whole property of the Communist Party of the Republic of Armenia and formerly its constituent Armenia's Lenin Communist Youth Union (presently Armenia's Youth Union), deem it as state property and transfer the right of its enjoyment to the Council of Ministers of the Republic of Armenia."[13]

Despite several warnings and even threats from Moscow, the Armenian authorities consistently nationalized this property.[14]

* * *

This reform, which was an important pillar of democratic reforms, apart from legalizing the existing multi-party system and creating a framework for a robust political struggle, was called to resolve a much more important problem conditioned by the specific nature of the Armenian political reality. It erected a barrier against anti-political ideologies, which as such threatened the foundations of the State. This concerned in the first place the so-called "Demands stemming from the Armenian-Question," which had caused a number of disasters in the last century - destructive for the nation - but which due to several factors continued to remain the axis of Armenian socio-political thought. It is true that by the first ANM program published in 1988, it was rejected by the Karabagh or Armenian National Movement. Now this was raised to the level of legislation. It is true that this reform was unable to completely eliminate "the Demands stemming from the Armenian Question" as an anti-objective reasons. However, from 1988 and for almost a decade until

[13] *Bulletin of the RA SC, 1991, 08, Art. 146.*

[14] This was a problem that all states having stepped on the road to democracy were to face. In Russia, for example, the nationalization of the property of the Comunist Party was implemented by the Decree of Boris Yeltsin, President of the RD dated August 23,1991 (See the Bulletin of the RF SC dated 1991, 35, Art. 1149, 1164).

1998 it was not brought to the heart of practical politics and remained in the margins.[15] And it was in this decade of rejection of the “Demands Stemming from the Armenian Question” that it became possible to forge victories and resolve national problems - unprecedented achievements not only for the last century but for the last millennium of Armenian history.

[15] And this was irrespective of the fact that this anti-political notion was in this or that manner reflected in the programmes of the majority of the registered political forces.

ESTABLISHMENT OF INDEPENDENCE IN ARMENIA AND THE CONSENSUS BETWEEN THE POLITICAL PARTIES



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Introduction

The All-national movement that originated in 1988 with an initial focus of reuniting Soviet Armenia and Nagorno Karabagh transformed into the movement of independence shortly after its boisterous start. In 1990 at the elections of the Supreme Council the Communist Party had to give up its monopoly of power and with the victory of democratic forces radical changes started in all areas of public life and governance. In that context, however, the issues of Armenia's independence naturally gained dominance over all the other issues.

Independence, being the highest priority of public and political life and given its exclusively political nature, was to become the cornerstone of the next round of competition between Armenian political organizations. Except for the Communist Party all other political parties were advocating for independence, however there were deep-rooted differences concerning the means and tactics of achieving it. In that atmosphere the issue of independence was sometimes subordinated to narrow interests of political parties leading to heated political debates that contributed to the misconception that independence was not the overarching goal of the national agenda and there was no national consensus concerning the idea of independence. However, the referendum held on September 21, 1991 came to prove the opposite, demonstrating both public moods and precise political assessment of the process through the results.

Independence on the agenda

The idea of Armenia's independence was considered by separate political groups and individuals in previous decades and following

the start of the Movement in 1988, but the "turning point" was at the founding assembly of the Armenian National Movement (ANM), where it was made substantive and was included in the program of the party[1]. It should be noted that the main Armenian political organizations, including ANM, National Self-Determination Union (NSDU), Republican Party of Armenia (RPA), Christian-Democratic Union of Armenia (CDUA), etc. were all supporting independence without reservations. Since they were to act in the Soviet reality, they clearly understood the state of power arrangements in the USSR and inside Armenia. It was obvious to them that the power balance had changed and the collapse of the Soviet Union was just a matter of time and the issue was just with the methods and techniques for the process.

However, the situation in the Armenian Diaspora was different.

Diaspora political organizations did not take the Movement unequivocally given the specific considerations of the environment of their activities, political party interconnections and relevance aspects, and the historic memory. The unprecedented call/statement made jointly by the Armenian Revolutionary Federation (ARF), Democratic Liberal Ramgavar Party (DLRP) and Social-Democratic Hunchak Party (SDHP) in October 1988 as a reaction to what was happening in Armenia deserved a special note in this context. The three political organizations in their "joint" statement demanded the Soviet Armenia government to prioritize a fair settlement for the Nagorno Karabagh issue and urged the people of Armenia and Artsakh to refrain from strikes and protests not to distort domestic order and economic, cultural and educational relations[2]. Such a statement made it obvious how unaware Diaspora organizations were of the realities in Armenia as the Movement was starting.

In 1990 the first substantive deliverable of the new non-Communist government of Armenia was the 12-point Declaration of Independence. On August 4, 1990 by the decision of the Supreme Council of the Armenian Soviet Socialist Republic a 15-member commission was established to prepare the independence declaration. The Commission received recommendations from public and political organizations, including the Communist Party of Armenia (CPA), Constitutional Right Union (CRU), RPA, etc. and on August 20 the Commission submitted to the Supreme

[1] See A. Sargsyan., History of ANM, part II (special section), https://goo.gl/b15Xm7 (25.02.2018)
[2] See Droshak**,** A., 12/10/1988

Council the endorsed draft[3]. The voting took place on August 24, 1990 and the Declaration of Independence was passed (192 pro-votes, two abstained) and rang the bell for Armenia's independence.

The threat of independence across the USSR was likely to replicate through a domino effect and the central authorities took some steps to stop that from happening. On April 3, 1990 Mikhail Gorbachev, President of the USSR signed a law which artificially complicated the process for Soviet Republics to secede from the Union and gain independence[4]. On January 16, 1991 the Supreme Council of the USSR passed a decree to conduct a referendum on March 17 of the same year to keep the Union. It might seem a paradox, but that decree played a major role in shaping Armenia's path of independence by adding urgency to the independence agenda.

Political party perspectives on independence

Perspectives of Armenian political parties on independence could be described in three broad groupings. The first group included radical supporters of independence with NSDU and others sharing the same ideology (RPA, CDUA, etc.) that insisted on declaring independence as soon as possible. The second group led by ARF included "moderate" supporters of independence. Though ARF's program always underscored the need for independence, it had a focus on the idea of "United Armenia" in the context of the issues of Armenian demands[5]. And the third group led by ANM was the one that had this "poised or non-emotional" stance on pursuing the "dream for independence"[6]. Thus, ANM's suggestion was to follow the path of independence without confrontation with Soviet republics.

With the view that the decision of the referendum in the USSR was aimed at strengthening the position of central authorities, ANM suggested seeking independence by following the laws and legal procedures of the USSR. The plan was to conduct a referendum in September 1991. ANM assumed that in case Armenia votes for independence through a referendum the USSR "Center" would be obliged to play by its own laws

[3] See E.Poghosyan, The Process of Establishment of Independent Statehood (1990-2001), Y, 2013, p. 31
[4] See Izvestiya, M., 7/04/1990
[5] See Yerkir, Y., 20/09/1991
[6] See Argumenti i Facti, M., No. 14, 1991

and to recognize the new status of the seceding republic[7]. By the way, the Communist Party of Armenia was also supporting that approach but with different considerations, of course. There was a lot of uncertainty concerning the future of the Union and CPA was just waiting for more clarity and wanted to push back the referendum date as much as possible[8]. On the other hand, NSDU insisted on an early date and some members of the Supreme Council suggested conducting the referendum as early as April/May of 1991. In the light of rapid developments in the USSR the latter were concerned that the momentum could be missed.

However, on March 1, 1991 the Supreme Council of Armenia decided not to conduct the USSR-wide referendum in Armenia, referring to the fact that it went counter with the right to self-determination of nations[9]. At the same time, with another decision of the Supreme Council, September 21, 1991 was set as a date for a referendum concerning Armenia's secession from the USSR. On March 4, 1991 a consultation between the political organizations of Armenia concerning the preparations of the independence referendum took place with participation of all major political parties, including ANM, CPA, ARF, DLRP Armenia, NSDU, and RPA. In attendance were also Levon Ter-Petrossian, Chairman of the Armenian Supreme Council and Vazgen Manukyan, Chairman of the Ministerial Council. In fact, political organizations except for the Communist Party did not have any objections concerning a separate referendum on independence. So there was a unique consensus between the political parties concerning Armenia's path to independence.

The USSR authorities realized that artificial barriers and limitations would not break the chain of independences and decided to sign a new agreement between the member-republics of the USSR. The draft published on June 18, 1991 escalated the differences between Armenian political parties ahead of the referendum. CPA was consistently refusing to join the efforts of advocates of independence and was very much for the new Union agreement. It's interesting that ARF was also supportive of that approach and was critical of the "hastiness" of ANM in seeking independence[10]. ANM had some reservations concerning the new Union

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7 See V.Manukyan, *Armenian Dream in a Gridlock of Survival*, V.I.V. Today and Tomorrow, Y., 2002, p. 109

8 See Hayq, Y, 5/05/1991

9 See 25th Anniversary of the Independence of the Republic of Armenia, compiled by Babken Ararktsyan, Ashot Sargsyan, Gohar Khachatryan, Yerevan, 2016, p. 63

10 See "Hayastani Hanrapetutyun", Y., 3/07/1991

Agreement and believed that it would make Armenia an enclave of the new Union and independence would just become an "illusion with no perspective"[11].

ANM's approaches concerning the policy of making Armenia into a subject of international law was supported by DLRP Armenia[12]. Under this political line the future of the USSR was seen through a commonwealth of independent states that were subjects of international law[13]. In fact, a system of states interconnected through horizontal relations was suggested, where decisions were made based on the principles of accord and equality. However, the Communist Party was seeking a future as part of a new federation and was resisting this policy line of ANM[14]. ARF also believed that the USSR was to play a major role in resolving the Armenian issue[15].

Though the idea of independence was part of ARF's program (but in the visible future) ARF saw an independent and autonomous Armenia as part of the refreshed system of the USSR[16]. For ARF, independence was incomplete without "united Armenia" and they considered it a possibility only as part of the USSR. ANM did not see any perspectives even with the new Union and believed that the totalitarian state could be dismantled from the top by turning it into a platform for a new type of collaboration employing "constructive actions"[17]. Armenia was positive about the discussions concerning the changes in the structure of the USSR[18] and was suggesting using the idea of "creative" power in the process, however, because of the quick fall of the USSR this approach that could have helped member-states avoid being trapped under political debris did not work.

On July 10, 1991 at the Supreme Council of Armenia the ANM, RPA, DLRP Armenia, CDUA, NSDU and National Conservative Party (NCP) made a joint statement which was a demonstration of unique accord between the public and political forces concerning Armenia's path to independence. CPA and ARF did not join the statement. The statement in a sense brought together all the rightist forces that were

[11] See Hayq, 26/06/1991
[12] See "Hayastani Hanrapetutyun", 11/07/1991
[13] See L.Ter-Petrossian, Selected Speeches, Articles, Interviews, Y., 2006, p. 175
[14] See "Hayastani Hanrapetutyun", 21/06/1991
[15] See S.Harutyunyan, On the Past and Present, Y, Noyan Tapan, 2011, p. 209
[16] See Azatamart, Y., No. 18, June 1991
[17] See L. Ter-Petrossian, work mentioned, p. 231
[18] See «Le monde», P., 25/07/1991

jointly taking the responsibility for leading the independence process to its logical conclusion and expressing their commitment to work towards Armenia's independent national statehood. The main message of the statement was that national development and prosperity could only be achieved through seeking independent statehood[19]. The statement was a call to the Armenian people to act on "the dream of our ancestors and build free and dignified future for the next generation" by saying "Yes" to independence[20].

Though there was unanimity around the idea of independence between all the forces there was no consensus on when to declare it. Furthermore, this became a heated topic in domestic political struggles where the primary debating sides were ANM and ARF. It should be noted that ideological differences between them were seen on all the aspects of public and political life thus generating the political palette of "proposition" and opposition, and as long as the differences remained at the political and ideological level there was a healthy progress in political processes in the country.

There was no ambiguity in ANM's stance on independence: the empire was collapsing, and Armenia had to avoid remaining under the debris by all means. In this context it was instrumental to establish relations with other countries which Armenia was unable to do as part of the USSR. This "daring" move of ANM was going counter with ARF's "cautiousness" because the latter was concerned with a threat of new genocide by Turkey. ARF believed that Pan-Turkic aspirations of Turkey were a constant threat for Armenia and the USSR as a superpower was able to suppress those aspirations, while in the absence of the USSR that would become a direct threat for Armenia. ARF was circulating a new term "Neo Pan-Turkism", where the idea of Great Turan was changed with the idea of a single system for Turkic-speaking nations[21]. ARF was skeptical about the peaceful and secure existence of Armenia with a neighbor like Turkey, particularly for an Armenia that was independent and left without Russian support. ARF saw Armenia's salvation within the Russian state in harmony with the Z. Balayan's thesis of "Russian orientation"[22]. The leader of the political party Hayk Marukhyan noted that it was not the

[19] See V. Manukyan., work mentioned, p. 137-138
[20] See "Hayastani Hanrapetutyun", 11/07/1991
[21] See L. Khurshudyan, The Armenian Cause, Y., 1995, p. 85
[22] See Droshak, 5/07/1989

right time for declaring independence[23]. In this context the aspirations for seceding from the USSR and declaring independence were presented as anti-Russian which was distorting the debate and deviating it from the main subject which was the choice between existence under the protectorate of another state or building an independent future[24].

Without denying the threat of Turkey in terms of realpolitik ANM was suggesting its own solutions. They emphasized that Armenia was not regaining independence, because it might generate a huge burden in terms of security and other obligations but establishing independence. Given Armenia's unique position it was a flexible move to avoid possible territorial disputes with Turkey. An Armenian-wide independence referendum in ANM's view was the logical follow-up step after the Declaration of Independence, whereby independence was recognized as an imperative and the future of independent Armenia was a guarantee for the strong state[25].

ARF's position was that Armenia could not be successfully independent with such borders. They were supporting the ideology of "unified Armenia" and seeking independence for "unified Armenia". They declared the Armenian cause as the primary goal and ARF was not supportive of seeking independence in part only, insisting that the Armenian cause could not be considered part by part and that the freedom and independence of Armenia could not be sought only for a part of Armenia without Western Armenia, Javakheti and Nakhijevan. So, for ARF the Armenian cause required a series of actions whereby the priority was "unified Armenia" and then independence of Armenia as a whole and not just a part of it[26]. For ARF the referendum of September 21, 1991 meant just a "declarative independence"[27].

The Communist Party was the only political party opposing even the idea of independence because they couldn't imagine Armenia's existence outside the USSR referring to the economic structure and social-economic implications. According to the Communist Party the USSR would continue its existence and Armenia by leaving that economic system and staying without support would face some dire consequences. ANM was convinced that the collapse of the USSR

[23] See Droshak, 19/07/1989
[24] See Which Way Shall We Go (comp. by A. Bleyan, "Arevik" Y., 1990, p. 119)
[25] See E. Yegoryan, Protecting our future, Y., 2003, p. 73
[26] See Azatamart, 18/06/1992
[27] See Hayastani Hanrapetutyun, 03/07/1991

was inevitable and their recommendation was to focus on building free economic relations with other republics in a status of an independent state. For them independence was a guarantee to avoid economic collapse as suggested by declining economic indicators of the USSR[28].

Other political parties were also part of the debate on independence. NSDU was decisively "Yes" and their concern was the late date of the referendum. The party was convinced that the momentum for independence should be seized[29]. NSDU in accord with CRU was suggesting to declare Armenia's independence together with Nagorno Karabagh. These political parties in May suggested changing Armenia's borders to include Shahumyan, Getashen and the Autonomous Republic of Nagorno Karabagh. NSDU and CRU suggested sending an official request to the UN and ask for peacekeepers from the Gulf contingent to be deployed along the new borders of Armenia and to ensure the independence of united Armenia[30]. These illusional demands didn't seem realistic since they did not consider the international reaction and also there was uncertainty concerning the mechanisms and the implications for Armenia.

DLRP was fully supportive of ANM's policy, viewing freedom and independence as priorities. In their view the referendum was an "interim step" and a necessary precondition for the next steps of the independence process. The same political and ideological line was supported by DLRP Armenia, which considered an independence referendum as the supreme right of independently expressing its own political being[31].

NDU, which was split from ANM, was also supportive of the latter's position with a difference that independence was not the final stop in the process but rather an interim step. This political party was building its approach on the concept of Armenian supremacy and the role Armenia could play as a "global nation"[32]. RPA and CDUA also supported the independence referendum[33].

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28 See V. Manukyan, Time to Flee, https://goo.gl/cQTgty (15/03/2018)
29 See Hayastani Hanrapetutyun, 11/07/1991
30 See Hayq, 14/05/1991
31 See Hayastani Hanrapetutyun, 11/07/1991
32 See Hayastani Hanrapetutyun, 16/12/1990
33 See Ibid, 11/07/1991

Agony of the union

While the political parties in Armenia were debating the timing and relevance of independence, there were some rapid developments in the USSR. The last straw for the USSR was on August 19, 1991 when high ranking officials of the USSR staged a coup, pushed Gorbachev out and took power with the intention of "stabilizing the situation in the country". The State Committee on the State of Emergency was established, more widely known as the GKChP or the Putch, with a primary goal of not allowing a new Union agreement which would allegedly weaken the Union[34]. Ironically, the Union did not get weaker because of the new agreement but because it was politically destroyed by the conspiracy of the GKChP and three days later democratic forces of Russia restored the constitutional order. August events of 1991 marked the end of the USSR by shattering the already unstable domestic situation and by annulling the international reputation of the superpower.

The attempted coup and its failure stirred up some reaction in the entire Union, including in Armenia. A new wave of disagreements between political parties was observed in Armenia and some oppositional parties demanded not waiting for the September 21 referendum and instead to immediately declare the independence of Armenia together with Artsakh. This was the demand of ARF, NSDU, CRU, RPA and CDUA during the protest on August 31, 1991. Worthy of note is the dramatic turn in the demands of ARF which was previously advocating for Armenia staying within the USSR.

Furthermore, these political parties that had already positioned themselves as an opposition to ANM were demanding an official statement to condemn the attempted coup[35]. However, ANM and Armenia's leadership resisted the temptation for spontaneous actions and chose to wait, which was later appreciated even by ideological opponents[36]. Levon Ter-Petrossian as the Chair of Supreme Council was urging composure and with that ANM avoided hastily condemning the GKChP. In fact, should the coup succeed, the implications could be really dire for the smaller republics seeking independence and Armenia's neutrality was a sign of political prudence. The political parties were able to identify a compromised version and on August 26, 1991 a statement/call to

[34] See V. Varennikov., P. Romanov, B. Kurkin, Faith and Conscience, Palea, 1993, p. 41
[35] See Ankakhutyun, Y., 30/08/1991
[36] See R. Ghazaryan, I am Accountable, Y., 2003, p. 10

Armenians was issued on behalf of the Supreme Council urging them to participate in the referendum and vote for independence on September 21, 1991[37].

Another proof of unanimity on the issue of independence between the political parties, including ANM, DSDU, ARF, RPA, DLRP Armenia, CRU, and CDUA was the establishment of a coordination council for the referendum. The latter was established to ensure the positive outcome of the independence referendum. Also the Central Committee for the independence referendum was created and it is noteworthy that it was chaired by Babken Ararktsyan, member of ANM Board and First Vice Chairman of the Supreme Council.

On September 21, 1991 the referendum took place and 2,056,758 voters out of 2,163,967 participated (95.5%). The number of "Yes" votes was 2,042,627 (94.39%), "No" votes 10,002 (0.46%). There were 4,129 (0.19%) invalid ballots. Without any hesitation on September 23, 1991 the Supreme Council passed a historic decision, which was read out from the podium of the Supreme Council by Aram Manukyan. "Based on the results of the September 21, 1991 referendum on seceding from the USSR the Supreme Council of Armenia declares the Republic of Armenia an independent state". Two days later the Supreme Council of Armenia passed the constitutional law on the basics of independent statehood[38].

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Thus, the idea of independence for Armenia was welcomed nearly unanimously by all the forces and there was an accord around the process. The idea of independence created a unique political platform of solidarity between the political parties. This assessment in no way was diminished by the fact that in the independence process the political parties were split into three groups (NSDU, ARF and ANM-led parties) and were debating with each other based on their differing roadmaps. However, all these differences became marginal on September 21, 1991 and independence was the preference for all of them. The process of establishing independence in Armenia happened in a highly politicized environment accompanied by persistent and principled ideological struggles. ANM with the legal and political responsibility for the process,

[37] See The RA Supreme Council Newsletter, No. 16 (996), 31/08/1991, pp. 15-16
[38] See 25th Anniversary of the Independence of the Republic of Armenia, pp. 85-89

ARF as the opposition, and other political parties involved made their contribution to the end result, which marked a mature political process and the establishment of independence in Armenia without shocks.

It is noteworthy that Armenia became the only USSR republic where the independence process was fully consistent with legal procedures and laws of the USSR, even with the complexities enacted recently. The artificially nourished discourse of anti-Russian sentiments did not yield significant results and the establishment of independence in no way was associated with Russophobia. The Declaration of Independence also marked the beginning of the process for the establishment of Armenia as a state. The process was based the ideology of liberalism and the actions and steps deriving from that, including political reforms (creation of state institutions, political and political party systems, etc.), economic reforms (free market economy, land privatization, etc.) and foreign relations (international recognition of the Republic of Armenia, membership to the global family of nations, etc.) were dictated by principles of liberalism. That became possible as an outcome of political multi-polarity, competition of ideas, prudent calculations and responsibility. Also, through the exceptional phenomenon of the 1991 consensus between the political parties on the issue of independence.

FIRST STEPS OF FREE PRESS IN THE THIRD REPUBLIC

ARAM ABRAHAMYAN
Press Secretary of the RA President in 1992-1994
Editor of "Aravot" daily

In Armenia freedom of press which was "formalized" by the adoption of the Declaration of Independence, and later on by the Law On Press, stems from three main sources: 1. Soviet "samizdat", 2. newspapers published in the late 1980s at the fall of the same era, and 3. professional journalism developed under Soviet censorship. With some reservations, we can also mention the Armenian-language periodicals of the Diaspora with strong influence especially at the cusp of 1980-1990, when the Armenian press was making its first steps.

The development of free speech not controlled by the State is first of all linked to "samizdat" (self-publishing) which in the case of Soviet Armenia reflected the ideas of the national awakening of the 1960s in a unique way. It is interesting to note that in Russia, the term "samizdat" mainly referred to the publication of works of fiction banned by the communist government. Meanwhile, "self-published" media outlets and magazines in Armenia were highly politicized from the very beginning. This can be considered as a basis of tradition to a certain degree; both then and now, the knowledgeable part of the public was, in fact, interested in the political issues of preservation of national identity, and historical justice.

In April 1967, on the occasion of the Genocide Commemoration Day, the clandestine United National Party (NUP) distributed the first leaflet entitled "Paros" (Beacon), and from October 19-20 of the same year - the four-page "Paros" newspaper. Let us quote a few headlines, which speak for themselves in terms of the content of the Armenian "self-published" media of that region: "Armenia under the Yoke", "The Armenian Question", "What is the Language of the Nation?".

Dissidents fighting for Armenia's independence, like Haykazn Khachatryan, Shahen Harutyunyan, Stepan Zatikyan, Paruyr Hayrikyan, Ashot Navasardyan, Azat Arshakyan, and others, published a number of

other “self-published” newspapers besides “Paros” in the 1960s, including “Yerkunq” (Throes), “Tsasum” (Anger), “Hanun Hayreniki” (For the Motherland). Newspapers were printed on standard printing paper using duplication techniques, usually with a print run of hundreds, or sometimes even larger. It is clear that the publishers of “independent” newspapers were severely persecuted by the Soviet KGB, the newspapers were seized, and politicians and activists imprisoned. In total, over 100 people were convicted for expressing dissenting opinions in Armenia between 1953-1990, mostly under the Article on “anti-Soviet propaganda.”

Probably, these harsh repressions were one of the important reasons that from 1969 to 1985, for about 16 years there was almost no information about “self-published’ newspapers in Armenia.

The political movement “Perestroyka” (Restructuring) announced in the Soviet Union in 1985, and its key slogans “publicity” and “glasnost” (transparency), created certain opportunities for citizens’ social activism. A number of non-governmental organizations were established in Armenia: “Mashtots”, “Zangakatun”, “Amberd Rehabilitation Fund”, and “Goyapaykar”. The latter, for example, was registered as an environmental organization, but in reality, had political issues on its agenda; it should be noted that environmental issues were highly politicized, too, in the 1980s. That organization self-published the “Mashtots” weekly, thanks to the notable efforts of Vahan Ishkhanyan and Tigran Paskevichyan.

As censorship and repression lessened, dozens of self-published newspapers emerged, many of which did not last long, having published two to three issues only. Some of them, however, played a significant role in the development of free speech in Armenia. Such newspapers include “Inknoroshum” (Self-Determination), “Ankakhutyun” (Independence), “Hayrenik” (Homeland), promoting the ideas of the 1988 Karabagh movement “....ev ayln” (...etc.) of the National Self-Determination Union, edited by Alexander Arzumanyan, as well as self-published periodicals “HHS Khosnak” (ANM Spokesman), or “88” of the Armenian National Movement (ANM). Most of them were close in style to leaflets and posters distributed in Freedom Square, but they already contained purely journalistic materials. The content of these newspapers, in addition to the revolutionary publicity conditioned by the situation, gave rise to new, free press sprouts of journalism which took final shape in newspapers already officially registered, distributed, and published by printing presses in the final years of the Soviet era.

One of the first non-communist Armenian newspapers to be published in the Soviet period was the “Hayk” political and public weekly. Its first issue was published on November 4, 1989, on the day of the first Congress of the ANM. The first editor-in-chief of the newspaper was Samvel Gevorgyan, a member of the “Karabagh” Committee. Both during the Soviet era and during the years of independence, “Hayk” was not limited to partisan propaganda, providing a platform for journalists and publicists of various persuasions to openly discuss a variety of domestic and foreign policy issues.

Earlier, in August 1989, the publication of “Iravunk” (The Law) weekly of the “Constitutional Law” Union was initiated. In the mid-1990s, “Iravunk” was one of the most influential and widely circulated opposition media outlets.

If we consider the Declaration of Independence adopted on August 23, 1990, as a first landmark, then “Munetik” (Herald), (editor: Mher Davoyan) with the first issue published on May 27, 1990, was among the non-communist outlets of the preceding period. The periodical brought freshness with its freestyle, a wide range of everyday, human topics, and entertaining materials. During the first years of independence, the newspaper’s content was politicized, acquiring mainly the oppositional dimension.

Among these new periodicals that appeared in the so-called transition period, the following ones are perhaps worth mentioning: “Andradardz” (Reflection) magazine (editor: Rita Sharoyan), “Urbat” (Friday) weekly, as well as the Russian-language “Svoboda” (Liberty). The first two sympathized with the Armenian Revolutionary Federation (ARF) in the early 1990s, and the latter mainly pursued the political line of the National Self-Determination Union.

The history of Armenia’s free press would be incomplete without mentioning the media outlets established by Soviet state bodies which later on gradually were freed from censorship in 1985, and especially from 1988 on. Finally, it should be noted that even under the conditions of censorship and stagnation, there were talented journalists operating in Armenia, who especially in the second half of the ‘80s, were able to raise issues of public concern, in particular, the most important issues related to the environment and the national agenda.

Such a media outlet was the “Garun” (Spring) magazine, edited by Vardges Petrosyan and further by Meruzhan Ter-Gulanyan. Having

mainly a youth focus (in the '70s and '80s it was the body of the Central Committee of the Armenian Lenin Communist Youth Union of Local Self-Government) and literary-artistic dimensions, "Spring" covered a wide range of topics, preparing the national uprising of 1988 with literary works and publicist articles. It is worth mentioning that from 1986-89 the sociopolitical journalism section of that magazine was headed by Vazgen Sargsyan, one of the key figures of the Third Republic.

In March 1990, "Garun" magazine also published a weekly, the first and only issue of which included articles by Karen Svasyan, Vazgen Sargsyan, Mekhak Gabrielyan, Rafael Ishkhanyan, and Vazgen Manukyan, which in many ways predetermined the political discourse of the first years of independent Armenia.

The body of the Communist Union was "Avangard" (Avant-garde) newspaper, and the publisher of "Evening Yerevan" was the Yerevan City Committee of the Communist Party (editor: Kamo Vardanyan). Despite this official status, during the Karabagh movement, the editorial boards of these periodicals and many of their journalists with their critical publications contributed to the consolidation of the society around national issues. The "Vozni" (Hedgehog) weekly (editor: Aramayis Sahakyan) went beyond the limits of the satirical genre in those years, raising the issues of the nation and state development. Aramayis Sahakyan, Kamo Vardanyan, as well as a dozen-plus representatives of the media world, became the first "non-communist" members of the Supreme Council in 1990. In the late 1980s, the "Grakan Tert" (Literary Newspaper), the organ of the Writers' Union of Armenia, also promoted progressive ideas.

The Russian-language Communist newspaper of the Central Committee of the Communist Party of Armenia was renamed "Golos Armenii" (Voice of Armenia) in 1990 (editor: Flora Nakhshkaryan). The media was in radical opposition until 1998 and due to the professionalism of its staff, had a significant impact on the audience with similar views. In general, it should be noted that from 1990-1998 the vast majority of the media was in opposition. During that period opposition circles and political forces owned significant material resources, this being most probably one of the rationales of this phenomenon.

The journalism during the transition period and the coverage of issues discussed were also influenced by the Diaspora Armenian press with decades of traditions. Among such media outlets were the Paris-based "Haratch" (Forward), independent at that time, the Beirut-based

official newspaper of the Armenian Democratic Liberal Party “Zartonk” (Awakening), as well as “Aztag” (Impulse), the official newspaper of the Armenian Revolutionary Federation. These and a number of other periodicals became available to Armenian readers in the second half of the 1980s and contributed to the formulation of a nationwide agenda.

Under Soviet censorship, foreign radio stations such as Radio Liberty, the BBC, the German Channel, and the Voice of America provided an alternative source of information for active citizens. After 1985, those radio channels were no longer “jammed”. They can also be considered one of the sources of the free press in Armenia, both in terms of choice of topics and purely journalistic approaches.

Also, the so-called “punk channels”, which were limited to home radio stations, were unique in the 1980s. They mostly broadcast “semi-restricted” music (especially works by western rock bands), but by the end of the Soviet era, those channels also broadcast news. “Punk Channels” can be considered a radio version of “Samizdat”.

This is the historical course of the Armenian press until the moment when in July 1990 the Supreme Council of the 12th session of the Armenian SSR was elected, which on August 23 of the same year adopted the Declaration of Independence of Armenia. Article 9 of that document declares that “On its territory, the Republic of Armenia guarantees freedom of speech, press, and conscience; separation of legislative, executive, and judicial powers; a multi-party system; equality of political parties under the law; depoliticization of law enforcement bodies and armed forces.” It is noteworthy that here the freedom of the press and the depoliticization of armed forces are put on the same level as factors in the development of democracy.

On October 10, 1991, the Supreme Council adopted the Law “On Press and Other Mass Media”, which entered into force on October 16. The law enshrined the situation in the media over the past year and a half, free operation of the print media, independent of state control.

The main significance of the law adopted immediately after the independence referendum of September 21, 1991 is expressed in Article 2: “In the Republic of Armenia, the press and other mass media are free and not subject to censorship. The citizens of the Republic of Armenia have the right to express their views and opinions in the press and other mass media, to receive urgent and reliable information on every issue of public life.” Thus, the law enshrines one of the important foundations

of democracy - the rejection of state censorship. This thesis, which was of fundamental importance, was mainly implemented in the print media during the subsequent history of the Third Republic and was an important step forward compared to the previous Soviet era. It should be noted that the norm of freedom of speech was enshrined in Armenia while the Soviet Union still existed, although at that time the functioning of that union was quite formal.

The title and content of the law indicate not only the press but also the “other mass media”, meaning television and radio. Here, too, freedom of speech was stipulated in the law, but the reality was that both state (public) and later private television stations were largely controlled by government agencies.

Another important principle is enshrined in Article 3 of the Law: “The press and other mass media are guided by the laws of the Republic of Armenia, the principles of equality, humanity, diverse opinions, tolerance, respect, freedom of conscience and other universal values, promote publicity and democracy, freedom of thought, speech, and pluralism”.

With this provision, the new Armenian authorities express their commitment to the universal liberal values that guide the developed democracies (no matter how much those values are questioned today). But tolerance and respect for pluralism cannot be achieved through state regulation only. This requires the daily collaborative efforts of the public and the media world. Current media outlets and the ones established after 1991 have not always adhered to the above-mentioned universal values.

The same is true about Article 6 of the Law: “False, unverified information provoking war, violence, inciting national and religious enmity, prostitution, drug addiction, advocating other criminal acts, is not subject to publication. The confidentiality of adoption and information about the private life of the citizen shall not be published without the consent of the citizen”. No state can guarantee 100% adherence to these principles unless there is a general consensus in the majority of society to reject, for example, propaganda of violence or to show respect to one’s private life.

The legal approach to registration of media outlets is quite liberal. Article 8 states: “Press and other mass media outlets shall launch their activities after registration with the Ministry of Justice of the Republic of Armenia. To register, the founder submits an application and the charter of the press or other media outlet. The registration application is considered

within a month". Further, only three documents required to register the media outlet are listed. As we can see, the registration process was quite simplified, and the newspapers usually did not have any serious problems in this regard. Almost three years later, after the adoption of the Law, there have been cases of suspension of newspapers by the State, to be further discussed.

The Law on the Press, adopted in the first months of independence, contains a number of other progressive provisions like the principle of non-disclosure of sources mentioned in Article 25: "The press and other media outlets have no obligations to indicate the sources of the media, and shall not publicize the name of the person who provided the information without one's prior consent. The editorial office or the journalist shall report the source of the information only at the request of the law enforcement bodies if required for the trial." This is an important norm that ensures the smooth operation of the media. Without it, informing the public about the negative phenomena of life would be impossible, and, by and large, criticizing those phenomena would be impossible. Most of the journalists working in the past decades have repeatedly referred to this norm and got rid of the pressure of "source-seeking" individuals and organizations.

From the same viewpoint, Article 31 of the Law is equally important, as it stipulates that even if the information in the press does not correspond to reality, the newspaper or the journalist is released from responsibility in the following cases: "1. It is present in the official documents and releases of state authorities, government, law enforcement bodies, public, public-political organizations: 2. It is a literal, unadulterated reproduction of public speeches. 3. It has been received from other media or state and non-governmental media services". This legal norm helps journalists to quote information or opinions expressed by politicians without fear of being held accountable if they have a relevant recording or video.

Eligibility of setting up a media outlet was a matter or principle. Article 7 of the Law provides the answer to that question: "State government bodies, enterprises, institutions, public, socio-political organizations, public movements, creative unions, scientific and other societies, labor collectives, religious, cooperative, other organizations, as well as the adult citizens residing in the territory of the Republic of Armenia have the right to establish the press and other mass media". It was another important progressive step, because in the previous era, one could not

even imagine that the founder and publisher of a media outlet could be anyone but the State. It was especially important that public, and public-political organizations, public movements were mentioned as potential founders, taking into account the course of the next few years, when the majority of the founders of newspapers were political parties, mostly opposition.

In general, the Law “On Press”, adopted in 1991, was fundamental to freedom of expression, and it is no coincidence that the current law, adopted in 2004, repeats the provisions of the preceding law. The historical significance of the adoption of the Law was that two to three years after its adoption, a number of independent radio stations became operational in Armenia, as well as more than a hundred newspapers, and the work of the existing media outlets was put on an institutional basis. The fact that the first parliament of independent Armenia paid special attention to the media is also proved by a separate Standing Committee on Media established under the Supreme Council of the 12th convocation, something that was not present in the convocation committees which followed.

Another Law “On Public-Political Organizations” is directly related to the development of free speech. Months before the independence referendum, this law, passed on February 26, 1991, stimulated a multi-party political system. Here is one of the key provisions of the law: “Public-political organizations registered in the territory of the Republic of Armenia are equal.” In fact, the legal monopoly of the Communist Party had been shattered in previous years. By the decision of the Supreme Council of the 11th convocation (still a “communist” one) of November 1, 1989, the Armenian National Movement was registered as a political party. However, under the Soviet legislation, the legal status of parties was obscure. The Law “On Public-Political Organizations” enabled parties” to operate in the field under the legal regulations. In a short time, besides the Armenian National Movement and the Communist Party, the following traditional Armenian parties were registered in Armenia: the Armenian Revolutionary Federation, which formed its parliamentary group during the 12th Supreme Council, the Democratic Liberal Party, the Social Democrat Hunchakian Party, and the parties that had been already operating in Armenia: the National Self-Determination Union, the Republican Party, the Constitutional Law Union, and a number of other new parties. It is important that all the aforementioned parties had, or

created, their own media outlets, some of which were the official bodies of those parties, while others, in one way or another, reflected the views of those parties. With some reservations, it can be said that in the first half of the 1990s, the political press dominated the media and public sectors.

But a brief overview of the media outlets established in the first years of independence is probably worth starting with the official newspapers. On October 9, 1990, the Supreme Council established the "Hayastani Hanrapetutyun" (Republic of Armenia ("RA")) daily with Aydin Morikyan as the first editor. In the first issue, he formulated the first of the main goals of the newspaper as follows: "Coverage, analysis and ideological support of the process of implementation of the principles" of the Declaration of Independence. Being the official newspaper, the "RA" was committed to publishing the decisions of the National Assembly and the Government, which was provided for in Article 22 of the law on the press: "The mass media established by the state authorities and governing bodies shall publish the official releases of those bodies and the information provided by the court free of charge, and in a timely manner". Naturally, in the case of the abundance of alternative and opposition media, the "RA" was considered too "official" by some readers. Throughout its long history, the "RA" was often not limited to the functions of an official bulletin, publishing views and analyses that differed from the official one. In general, the Russian-language daily "Respublika Armenia" (Republic of Armenia), founded by the Parliament and edited by Tigran Hakobyan, had a similar approach.

One of the official newspapers is the "02" weekly of the Ministry of Internal Affairs (editor: Tigran Farmanyan), founded on March 6, 1990, which presented the "criminal chronicle" widely consumed by readers. Later, the "Yeter" (Air) weekly of the TV and Radio State Committee (editor: Gor Ghazaryan) became widespread, publishing the weekly TV programs, as well as popular scientific and entertaining materials.

But in the first half of the 1990s, newspapers with socio-political content were guiding the main direction of the press. On February 16, 1991, the "Azg" (Nation) newspaper started to be published first every three days, and then on a daily basis. The irreplaceable editor of the media is Hakob Avetikyan. Although the "Azg" is in one way or another related to the ruling circles of the Armenian Democratic Liberal Party of Diaspora and Armenia, the newspaper has adopted the principle of pluralism since its inception, trying to maintain a balance between pro-government and

pro-opposition forces. Purely creative approaches of the “Azg” were also innovative at the time; eloquent headlines, dominance of short news, presentation of opposing views in the same publication, and attaching importance to photo content. Application of these important principles of Western journalism in many ways predetermined the development of a quality Armenian press. It is also worth mentioning that the “Azg” is the first Armenian daily, which was laid-out and designed electronically by computer.

During the same period, the ARF press had a significant impact on society, both through its official organs and other media founded by party members. This impact is explained, on the one hand, by the aggravation of social problems and, consequently, by the growing dissatisfaction of the citizens (radical opposition newspapers responded to these public grievances), on the other hand, by the spread of nationalist sentiments conditioned by the First Artsakh War. The official newspaper “Azatamart” (Liberation Struggle) of the ARF Bureau has been published since March 8, 1991, with Mushegh Mikayelyan as editor. The weekly with its appendices (“Mitq”, “Varuzhan”, “Zangak”, “Aspar”) reflected the value system of the ARF and sharply criticized the government of that time for its “anti-national attitude”.

The “Yerkir” (Country) daily, published since August 27, 1991, was the official newspaper of the ARF Central Committee of Armenia. The founding editor of the newspaper was ARF Bureau member Abo Poghikyan, an American of Armenian origin. In the following two to three years, “Yerkir” became one of the most read opposition media; in 1993 the newspaper’s print-run reached 55,000 copies, which, apparently, is a record number for Armenian social and political dailies. Due to the relatively favorable financial resources, having a wide network of reporters, the newspaper was able to promptly respond to important political and social events, as well as battlefield hostilities, presenting its point of view, which was radically different from the official one. The publication of “Yerkir” and “Azatamart” newspapers was put on hold on December 28, 1994, when by the decree of the President of the Republic of Armenia, and further by the decision of the Ministry of Justice of January 13, 1995, the ARF was suspended in Armenia on the grounds of violating the law on political parties. “Yerkir” was relaunched in April 1998, but by losing its sharp opposition orientation, it no longer had the same success among its readers.

Along with “Yerkir” and “Azatamart”, a number of other party-linked periodicals like “Friday”, “Reflection”, “Aragast”, and “Marzashkhar” were terminated. It should nevertheless be noted that even after that, the opposition field in the press did not remain empty, and many other media outlets continued to be sharply critical.

The “Hunchak Armenia” weekly was the central official newspaper of the Social Democrat Hunchakian Party in Armenia, with the first issue released on October 20, 1990. The founder and the director-in-charge of the weekly was Yeghia Najaryan, who was also the author of almost all the public discourses of that periodical. The newspaper was clearly pro-government and sharply contradicted the views expressed by opposition figures.

In the first half of the 1990s, the Communist (“Hayastani Komunist” (Communist of Armenia)), Republican (“Hanrapetakan” (Republican)), and Democratic (“Azdarar” (Herald)) parties had their own media outlets, which were also in opposition at the time. In general, there were three pro-government newspapers in Armenia in those years, the rest more-or-less represented the opinion of the opposition, a situation that reflected the political atmosphere of the time and the government policy in the press until the end of 1994.

Among the diversity of the press of the first years of Armenia’s independence, we should also mention the periodicals that did not have a party orientation, did not directly participate in the political struggle, but played an important role in shaping the public agenda, like “Yerkir Avetyats” (Promised Land), “Hayutyun” (Armenianness), as well as Russian-language “Vremya” (Time) and “Urartu” newspapers, where the vigilant reader could find answers to his questions.

The picture would be incomplete without mentioning the fact that the adoption of the Law “On the Press” abolished the state monopoly on not only newspapers, but also news agencies. “Snark” and “Noyan Tapan” (Noah’s Ark) competed with “Armenpress” agency with a state status. By the way, the “Noyan Tapan” was the first to use e-mail in 1992 as a means of disseminating information.

Foreign media correspondents registered at the Armenian Foreign Ministry also played an important role in the media landscape of this period. Correspondents from TASS, Interfax, Reuters, France Press, and other news agencies, as well as other world-renowned media outlets, contributed to the provision of accurate information about the political and

social situation in Armenia, our country's foreign policy, and the Artsakh war. In terms of pure journalism, it was also a valuable school of providing news and building information materials.

It should also be noted that the Armenian government agencies, in particular the Administration of the President's office, the Government, the Ministries of Foreign Affairs and the Interior, worked closely with all media outlets, regardless of their political orientation, and there was no discrimination or unnecessary bureaucratic hassle.

In conclusion, the Law "On the Press and Other Mass Media", the Law "On Public-Political Organizations" and a number of other laws adopted by the first parliament of independent Armenia created a solid legal basis for the development of freedom of speech, which is one of the foundations of democracy. These reforms contributed to the formation of the free press. Despite numerous mistakes and mishaps in the process, these steps of the State opened a new page in the history of the Armenian media.

* *Some factual data on the press of the late 1980s and early 1990s are taken from the book "Bibliography of the Armenian periodical press: 1987-1996" by Nerses Hayrapetyan. Yerevan, "Girk", 1999.*

LIBERALIZATION OF GUARANTEES OF THE RIGHT TO FREEDOM OF CONSCIENCE AND RELIGION IN THE THIRD REPUBLIC OF ARMENIA



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In the Third Republic of Armenia the foundations of liberalization safeguarding the right to freedom and religion were laid by the nationwide movement of 1988, which was a totally liberal and democratic movement. One of the guarantees of the abovementioned rights was Point 9[1] of the Declaration of Independence of Armenia adopted on August 23, 1990, which stipulates that "On its territory the Republic of Armenia guarantees freedom of speech, press and conscience." Next is the RA Law passed in 1991 "On the Freedom of Conscience and on Religious Organizations", in the introduction of which it is stated that "In compliance with the proclamation of Armenia's independence, considering the spiritual revival of the Armenian people, its centuries-old experience and traditions; recognizing the Armenian Apostolic Church as the National Church of the Armenian people and as an important bulwark for the edification of its spiritual life and national preservation; guided by human rights and basic principles of freedom defined through international norms and consistent to Article 18 of the International Treaty on Civil and Political Rights, the RA Supreme Council shall adopt this law about the Freedom of Conscience and on Religious Organizations[2]."

Decision No. 331 of 04/07/1996 of the Prime Minister of the RA on the "State Council for Religious Affairs of the Republic of Armenia", too, belongs to the set of documents ensuring liberalization of guarantees of the right to freedom of conscience and religion[3].

The problem of the moral and legal choice of the individual lies at the core of the historical and legal analysis of freedom of conscience and religion. The first legal acts related to this problem testify that from the

1 See https://www.gov.am/am/independence/
2 See https://www.arlis.am/DocumentView.aspx?docid=82
3 See https://www.arlis.am/documentview.aspx?docid=14676:

very start freedom of conscience was considered as freedom of religious tolerance.

Freedom of conscience and religion is one of the faculties determining human nature. Being conditioned directly by the inherent moral consciousness of the reasonable man and by the peculiarities of his spiritual world, freedom of conscience and religion is an important criterion in the expression of individual's spiritual independence and individuality. Every individual is able to fully self-realize oneself in a unique way in the given social community, when freely guided by his or her conscience and the belief they profess. First, drawing a moral assessment of his or her own and then of others' behavior, the person chooses the type and range of concrete behavior, compares it with the behavior of other participants of social relations and through this process manifests his natural striving to live and create in an organized society.

Every member of a social entity harmonizes freedom of conscience and religion with human coexistence in their own way. They construct collective moral and spiritual value systems, common beliefs based on it – faith, and at a higher level of an organized society – national self-consciousness, etc.

It is noteworthy that some legal experts classify freedom of conscience as a category within the political constitutional rights. Some contemporary authors, such as E. Grigonis and A. Covler, too, consider it possible to include freedom of conscience and religion in the category of political rights. While one of the contemporary Russian theorists of jurisprudence V. Nersisyants believes that freedom of conscience and religion belongs to the area of personal (individual) rights and freedoms, that perceive and protect the man as a reasonable and spiritual being, as a free person. According to the French philosopher Voltaire, freedom of conscience is a right endowed to man by nature, and no one can compel him to adopt this or that religion. Man should be allowed to pray to his own God, as every person has the right to practice the religion he chooses.

In our opinion it is highly acceptable to classify freedom of conscience and religion in the domain of man's subjective (personal) rights. Namely, for a concrete individual this right "derives" from his essence, spiritual world, emotions, feelings, subjective perceptions and, lastly, personal moral value system. In this respect, before this right is recognized by the State and enshrined in its legislation, the person is already oriented in the choice of his or her behavior by means of choosing this or that religion.

The existence of the right to freedom of conscience and religion and its realization speaks of a legal, democratic state which ensures freedom of conscience and religion through the development of the religious and legal standards of its people and the citizens.

In Armenia there were historical periods when the realization of the right to freedom of conscience and religion was severely restricted. One of those periods is the 20th Century that was marked, especially, by the establishment of the Soviet regime, when the Armenian Apostolic Church was under a constant ruinous attack from atheism.

One of the first legislative acts of the Soviet rule was the Decree of January 20, 1920 "On Freedom of Conscience, Church and Religious Societies", which abolished all the privileges connected with faith. Immediately after the establishment of Soviet rule, according to the Constitution, the Armenian Apostolic Church was separated from the State. It referred to both the Russian Orthodox as well as all other Churches on the territory of the Soviet Union, The Armenian Apostolic Church included.

In 1920 schools were separated from the Church completely, and a little later the property of the Church was confiscated, including ritual objects, museum samples, manuscripts, and lands. Hundreds of churches and monasteries were demolished or turned into warehouses or stables. The situation went from bad to worse, to the point when the Armenian Apostolic Church was made to renounce the commemoration of the Genocide victims on April 24.

On December 17, 1920, the Armenian Revolutionary Committee passed the "Decree on the Nationalization of the Cultural Enterprises of Religious Establishments", according to which these enterprises passed under the administration of Louszhoghkomat (People's Commissariat of Enlightenment). On December 31 of the same year, by the order of Louszhoghkomat, teaching religious subjects at school and conducting religious ceremonies in churches were forbidden. Etchmiadzin's library – the Matenadaran, was nationalized, and on December 19, 1920 the buildings of the Etchmiadzin Monastery and a part of its property were confiscated. After the establishment of the Soviet rule in 1921 up until the 1930s almost all Armenian churches were closed in Armenia, in Artsakh as well as in different republics of the Soviet Union. Some of them were demolished, while those that remained were turned into clubs

and warehouses. The derelict monasteries were maintained as historical monuments. Any religious ceremony was forbidden by law.

On January 2, 1922 a decree was issued “On the Confiscation of the Property of Churches and Museums”, which was brought into effect starting from March of the same year. According to that decree almost all the property of the Armenian Apostolic Church that had museum or religious value was seized. On September 16, 1922 the Central Executive Committee of the Soviet Socialist Republic of Armenia adopted a decree “On Freedom of Conscience.”[4] It had both positive and negative sides. The positive side was that it stipulated the right to free thinking, free conscience and religion, and also determined the right to freely conduct religious ceremonies. However, it was formal in nature and was never implemented. The negative side was that the Armenian Apostolic Church was equated to other religious organizations.

On October 13, 1924 the Presidium of the Central Committee of the Communist Party of Armenia arrived at a decision about the liquidation of the clergy. The implementation of that law deprived the Armenian Apostolic Church of another right - the right to function freely. Through the application of that law the Soviet Union aimed at limiting the rights of the Armenian Apostolic Church in every way, confiscating and closing the buildings of worship and structures serving for other important purposes. The above-said was substantiated with the law adopted on January 19, 1925, according to which the building of the Gevorgian Seminary, the library-matenadaran of the monastery, the printing house, the museum, the congregational building, the power station, the storehouse, the refectory, the bakery, the building of the Synod, the guest house, St. Hripsime Church, Zvartnots, the new throne hall and all the gardens under the care of St. Etchmiadzin were confiscated.

With the decision of the Presidium of the Central Committee of the Communist Party of Armenia taken in 1926 “On the Rights of the State Political Department, on Administrative Deportation and Concentration Camps” a campaign was launched to deport and eradicate the Armenian clergy, as a result of which many Armenian clergymen were either killed or exiled to Siberia. Both in Yerevan and the regions most of the churches were either closed or demolished.

[4] Every citizen can profess or not to profess any religion, while before, in accordance with Tsarist laws, practicing religion was banned.

The regulation of legal relations between the State and the Church started in 1940, when the Armenian Apostolic Church began to gradually reclaim its legality and status lost years before.

The authorities' attitude towards the Armenian Apostolic Church underwent changes from both legal and religious points of view. For example: the leader of the Armenian Apostolic Church was appealing to both local and authoritative bodies of the Soviet Union with the plea to free the imprisoned clergymen from exile and reopen the monasteries and churches of significant importance. In this respect, the efforts of Catholicos Gevorg Chorekchyan, in particular, to strengthen the foundations of the Armenian Apostolic Church by building up its centuries-old reputation and the role of Etchmiadzin were substantial.

In 1941 the Soviet Union had to make changes in the inner political life of the country by temporarily terminating the anti-church policy, as it had to lead the people in the united struggle against the common enemy.

In the years of the Great Patriotic War waged in 1941, the Armenian Apostolic Church, despite its limited means, supported the Soviet Union with a number of undertakings. For example, for the creation of the tank division "David of Sasoun" the Mother See donated several expensive items and a big sum of money. It also organized fundraisings among the followers of the Armenian Apostolic Church. The Soviet authorities took these facts into consideration, and in 1944 Stalin greeted and thanked the dioceses of the Armenian Apostolic Church with a letter for their support lent to the Red Army. In 1945 the Armenian Apostolic Church was allowed to hold Catholicos elections, as well as resume the publication of the periodical "Etchmiadzin". With these steps the Soviet authorities showed their positive attitude and trust towards the Armenian Apostolic Church.

The resurgence of the Armenian Apostolic Church started in 1950, when Catholicos Vazgen I assumed the throne of Catholicos. The number of clergymen grew, St. Etchmiadzin, many churches and monasteries (St. Gayane, St. Hripsime, St. Shoghakat, Geghardavank, Khor Virap) were rebuilt or constructed, special attention was paid to the education in the Seminary, the relations between the Motherland and the Diaspora, as well as with other Churches were strengthened and deepened. And when the Monument to the victims of the Genocide was built in 1967, the Armenian Apostolic churches started to hold Requiem Masses in memory of the victims. This indicates that the tough policy of the Soviet Union towards

the Armenian Apostolic Church gradually gave way, opening chances for it to take the path of development and prosperity.

The Mother See of Holy Etchmiadzin was gradually acquiring the right to conduct foreign diplomatic relations, which opened up the opportunity to unite its dioceses around the Mother See of Holy Etchmiadzin. The positive shift of events drove Mother See of Holy Etchmiadzin to stabilize its positions in the legal field, express its own attitude concerning the church and, partly, foreign diplomatic issues.

In 1991, when the Republic of Armenia gained independence, the Armenian Apostolic Church tried to support the newly independent state in home and foreign affairs. It spared no effort to form the church-state legal relations. For example, on July 20, 1990, during the maiden session of the Supreme Council of the newly independent Republic of Armenia, Catholicos of all Armenians Vazgen I Palchyan[5] gave his patriarchal blessing and made an appeal. Later, on September 29, 1991, after an interval of many years, the Catholicos of all Armenians blessed the first chrism of the newly independent Republic of Armenia calling it "The Chrism of Independence"[6].

As stated above, during the years of godlessness of the Soviet Union almost all monasteries and churches were turned into clubs, storehouses or stables, but after the independence of Armenia all monasteries and churches started to function again, and the churches and monuments of historical heritage outside the Republic of Armenia were taken under state care.

On June 17, 1991 the Supreme Council passed the RA Law "On the Freedom of Conscience and Religious Organizations", which still stands. Being a progressive and democratic document for the historical period it was adopted in, this law is in line with the principles adopted by various international treaties.

As stated above, the liberalization of the right to freedom of conscience and religion has been continuing in the Third Republic of Armenia, and has formed the ground for free practices of different religious organizations functioning in the Republic of Armenia within the framework of religious tolerance.

Apart from the legal regulations stipulated by the Constitution and the current legislation, a proof of the actual guarantees of the constitutional

[5] See http://tert.nla.am/archive/HGG%20AMSAGIR/echmiadzin-vagharshapat/1990/10-12.pdf
[6] See https://www.qahana.am/am/christian/show/924741049/30

right to freedom of conscience and religion in the Republic of Armenia is the atmosphere of tolerance in the society towards the activities of various religious organizations.

A classic example of religious tolerance in the Republic of Armenia is the existence of 65 officially registered religious organizations.

Within the framework of our article, several articles about this law can be looked at as direct guarantees of the right to conscience and religion. Namely, according to Section 1 of this law “In the Republic of Armenia the citizens” freedom of conscience and profession of faith are guaranteed. Each citizen decides freely his position toward religion, has the right to profess a desired religion or not to profess any religion, to engage in religious rites individually or together with other citizens.”

The RA Law “On the Freedom of Conscience and on Religious Organizations passed on June 17, 1991, which was modified and amended on September 19, 1997 and April 25, 2001, summarizes the legal status of the Armenian Apostolic Church in the late 20th and early 21st centuries.

The RA Law “On Freedom of Conscience and on Religious Organizations” of 1991 is an expression of the positive attitude of the State towards the Armenian Apostolic Church, which demonstrates the political will of the state elite. However, this law, along with its numerous advantages, had one major drawback. The Holy Armenian Apostolic Church was equated to religious organizations. Under the concept of “religious organization” we perceive all types of organizations that perform religious activities, including those that do not accept the Christian doctrine.

An expression of the positive attitude of the State can also be considered the RA Law “On Relations of the Republic of Armenia and the Armenian Apostolic Church”, Article 9 of which states: “The Republic of Armenia recognizes marriages performed according to the canonical rites of the Holy Armenian Apostolic Church and dissolutions of marriage by the Holy Armenian Apostolic Church in accordance with the stipulations of an agreement signed by the Republic of Armenia and Holy Armenian Apostolic Church.”

We believe that it is high time for the Holy Armenian Apostolic Church, as a church which has had an important mission in preserving the spiritual life, national culture and national identity of the Armenian people, to

exercise its special constitutional power and be recognized as a national church.

Constitutions of a number of states (e.g. Holland, Iceland, Liechtenstein, Greece, Hungary, Malta, Great Britain, Monaco, Norway, and Georgia) provide for the special status of the national church. In 2017 the Venice Commission noted in Point 23 of its opinion on the draft law of the Republic of Armenia about making changes in the RA Law "On the Freedom of Conscience and Religious Organizations," that the special status of a church, as it is, is not inadmissible, provided that it does not discriminate against religious or other communities of belief, at the same time, stating in Point 24 the opinion that establishing a different legal status for one of the religious organizations is not in itself a violation of the standards of international human rights[7].

In 1989 the European Court, in connection with the "Darby vs Sweden" case, referred to the fact of having a national church. "Having a state church' is not a violation of Article 9 of the Convention on the protection of human rights and fundamental freedoms. To comply with the requirements of Article 9 of the Convention, the law of having a state church should encompass special guarantees concerning the religious freedoms of the individual. In particular, no one should be obliged to become a member of the state church or leave it.

The international experience allows us to conclude that, consistent with the Constitution and law, there exist no restriction on granting a special status to a national church which is of historical importance, determining certain particularities deriving from that status, and it is not considered a violation of the right of an individual to freedom of conscience and religion.

The precedents of the European Court of Human Rights do not contain any constraints on church-state relations. The regulation of church-state relations is left to the discretion of the State.

In addition, the "Convention on Human Rights and Fundamental Freedoms", as well as the "European Court of Human Rights", contain no precedent that prohibits granting a special status to a national church of exceptional historical importance.

It is noteworthy that granting traditional churches certain privileges is widely implemented in the countries of Western Europe as well. This

[7] See https://www.osce.org/hy/odihr/352161

international experience shows that traditional churches are granted far more privileges than it is stipulated in the legal field of our country.

At the suggestion of the RA State Council for Religious Affairs, with Decision No. 274 of the Government of RA from July 14, 1997, it was decided to hand over the churches and monasteries to the Armenian Apostolic Church. St. Grigor Lusavorich (Gregory the Illuminator) and St. Astvatsatsin (Holy Virgin) churches in the Hatsarat district of town Gavar in the Gegharkunik region, St. Grigor Lusavorich church in the village of Noratous (Dopounts vanq), the Masrunts monastery of St. Karapet in Dzoragyough, Ishkhanavank churches of Vardenik village, the Vanevanq church of Artsvanist village and Maqenyats churches of the Makenis village were handed over to the Holy Armenian Apostolic Church free of charge with the right to property. On March 17, 2000 a "Memorandum of Understanding" was signed between the RA Government and the Holy Armenian Apostolic Church, which was intended to serve as a basis for the regulation of the church-state relations. It was a significant, historical document signed between the Holy Armenian Apostolic Church and the Third Republic of Armenia for the first time.

According to the "Memorandum of Understanding" the RA Government highly appreciates the role of the Holy Armenian Apostolic Church in the preservation of the identity of the Armenian nation, and its great contribution in the establishment and development of the Republic of Armenia. "Attaching special importance to the undeniable role and significance of the Armenian Apostolic Church in the further development and strengthening of the statehood, as well as being guided by the principles and norms of international law on human rights and fundamental freedoms, we aim to further clarify the nature and content of the relationship between the Republic of Armenia and the Holy Armenian Apostolic Church."

In 2007, when Armenia passed the Law "On the Relations Between the Republic of Armenia and Holy Armenian Apostolic Church", it became the third republic (after Georgia) which legally separated the national church from other religious organizations existing in the country, thus emphasizing its role and exceptional significance in the life of the nation.

This, by itself, brings into the legal framework the already existing legislative relations between the Church and the State in educational, cultural and other spheres, further expanding their scope and deepening the church-state legal relations.

The basis for the development of the church-state legal relations was the fact that the State highly appreciated the importance of religious education of the society and the great role that the Holy Armenian Apostolic Church played in that pursuit.

To conclude the article on the liberalization of the guarantees of the right to freedom of conscience and religion in the Third Republic of Armenia, we believe that today the presence of religious tolerance in Armenia is the result of the appropriate and flexible policy conducted by the State, which has been implemented parallel with the formation of the Third Republic of Armenia.

SPECIFIC CONDITIONS OF THE CIVIL SOCIETY FORMATION IN THE FIRST YEARS OF INDEPENDENCE



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The main feature making the Soviet system different from western democracies was, conceivably, its top-down organization and management model, where both society and the specific layers of society were formed and substantiated from "above", by the Communist party. Such a model of the system hardly left any room for forming voluntary associations based on values different from the official ideology, and any attempt to form such associations was prevented from the very outset. This is the reason why the civil society (which, in the opinion of a number of researchers, includes all those formal and informal unions and organizations existing separately from the State, private sector and political parties, as well as civil and public movements and initiatives established on the principles of values, voluntarism and pluralism[1]), simply could not be formed in the Soviet system. Therefore, the inception of a self-organized, independent, spontaneous and value-based civil society became one of the first signs of the USSR's collapse, and of the liberalization of the newly independent Republic of Armenia.

In parallel with Gorbachev's policy of Perestroika (Restructuring) and Glasnost (transparency), in the late 1980s several civic initiatives came into being in the Soviet Union, beyond state control. In Armenia, too, the appearance of self-organizing civil initiatives out of the central authorities' control constituted one of the first signs of the Soviet system breakdown. The first such unions in some countries of the communist camp mainly focused on environmental issues[2]. Later, though, environmental groups

[1] Carothers, T., & Barndt, W., 1999. Civil Society. Foreign Policy, 117(winter), pp. 18- 24.
[2] Abrahamyan L. H., Aggressiveness and National Violence in the Former USSR. In *Divided Europeans: Understanding Ethnicities in Conflict,* Kluwer Law International 1999, pp. 59-75

and civic initiatives evolved into a broader national or democratic civic movement, with specific political and civic requirements.

Though the Karabagh Movement that started in Armenia in 1988 did not stem from an environmental movement, the ecology-related issues were constantly on the agenda of the mass demonstrations, and were even quite effectively used in the 1990 electoral campaign that eventually brought the Armenian National Movement to power[3]. The Karabagh Movement and the values and ideological standpoints (national, democratic, liberal) that were laid in the basis and further developed in the course of the movement, became the main ideological foundation for independent Armenia's civil society formation. However, the civil society and, to some extent – the Karabagh Movement itself, were strengthening and developing not only within the framework created by the Karabagh Movement, but also under the influence of a number of other circumstances. Among these circumstances the following can be specified:

- Definition, place and role of public organizations during the Soviet years,
- Dissident movements and groups in Soviet Armenia,
- The process of gaining independence and the context of the first years of independence in Armenia.

Definition, place and role of public organizations during the Soviet years

In many countries of the world the organized/formal structures of civil society are often called non-governmental organizations – to emphasize the fact of their being beyond state institutions. However, from the very first years of independence, the Armenian authorities preferred to apply the "public organization" term with regard to such associations, which imposed a mandatory content[4]. In the Soviet Union, public organizations (POs) were in fact closely annexed to the ruling power. It was the Communist party, based on its ideology, that defined the public organizations' mission, objectives, functions and scope of activities. Among such organizations

[3] Ibid.

[4] Blue, R. N., Payton, D. E., & Kharatyan, L. Z., Armenia NGO sector assessment. Report. Yerevan: World Learning 2001, p. 8

were various creative unions, for example, the Writers' Union, the Artists' Union, the Composers' Union, the Architects' Union and others that functioned in all the republics of the USSR and also had Union-wide representation. It would seem that these organizations were established to bring together people with similar professional interests and aspirations and that their primary mission should be promotion of their members' professional interests as well as the representation of their common goals. However, these structures pulled together people having various viewpoints and approaches, to make them more manageable and to have the Center's instructions fulfilled more effectively. These unions were created in a top-down mode, absorbing in the 1930s the entire diversity of associations and groups that had existed before. For example, until August of 1934, the writers and poets of the Armenian Soviet Socialist Republic were functioning within various literary unions (Union of the Armenian Fiction Writers, Armenian Association of Proletarian Writers, "November" literary union, etc.). However, in August 1934, the Writers" Union of Armenia was established as a branch of the USSR Writers" Union created in the same year, and all the other previously active unions were dissolved.[5]

Along with these common public organizations functioning in every republic of the USSR, in some of them there also existed POs formed upon considering the local peculiarities. In the Armenian SSR the "Committee on ties with the Diaspora" was such an organization. Compatriots' organizations also belonged to this type, characterized by the local specificities; their number increased during the first years of independence. These organizations, though, closely collaborated with the authorities, in some cases even providing their services for the state policy implementation. Thus, the Committee on ties with the Diaspora served for the USSR's foreign policy, using contacts with the Armenian Diaspora in the respective countries in favor of Soviet interests.[6]

In the USSR, public organizations were mainly funded by the state budget, so they depended on the State for almost everything. Over the years, the State had institutionalized and guided the activities of civil associations, to prevent them from being self-organized and

[5] Official website of the Writers' Union of Armenia: http://wua.am/%d5%ba%d5%a1%d5%bf%d5%b4%d5%b8%d6%82%d5%a9%d5%b5%d5%b8%d6%82%d5%b6/

[6] DAN, 2000-2001, Blue, R. N., Payton, D. E., & Kharatyan, L. Z., Armenia NGO sector assessment. Report. Yerevan: World Learning 2001, p. 8

community-based.[7] An interesting example of this is the institutionalization of age groups through public organizations like the Komsomol (the Communist Union of Youth) or the Pioneers. Under Soviet rule every child reaching 10 years of age automatically became a member of the Pioneer organization. There was such a structure in each school, and the relevant units operating at classroom level then were united within the Pioneers' organization committees of the school, region, town or city, Republic and the USSR. Children's membership was organized through a special swearing-in ceremony. Thus, all children aged 10-14 living in the vast territory of the Soviet Union were members of the same organization. The organization, wherever it might be, had the same structure, procedures, ideology and even vocabulary. Then, to follow pioneers, the Komsomol would come in. In the Soviet reality both organizations served as leadership schools for the country's future political and public leaders.[8]

Usually, the POs frontrunners were perceived by the Communist party's leaders as acceptable individuals; they could even speak on behalf of the state authorities.[9] The public had mainly learnt to cope with the existence of POs; people perceived them as a type of organizations implementing state governance.[10]

Dissident movements and groups in Soviet Armenia

The Thaw Period that followed Stalin's death in 1953 eased the tough state control in the USSR to some extent, and put an end to violent repressions. This affected all the segments of the State and society, definitively contributing to the generation and underground circulation of alternative ideas different from or even opposed to the official ideology. However, in the classical sense, dissidence and/or dissentience appeared in the USSR in the second half of the 1960s, quickly becoming a considerable factor in the country's cultural, social and political life.[11] It can therefore be said that it was the dissident thought, movements and groups that paved the way for the formation of a real civil society

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7 Blue, R. N., Payton, D. E., & Kharatyan, L. Z., Armenia NGO sector assessment. Report. Yerevan: World Learning 2001, p. 8

8 Ibid.

9 Ibid.

10 Ibid.

11 Даниэль. А., "Истоки и корни диссидентской активности в СССР," *Неприкосновенный запас. 2002 # 1(21)* https://magazines.gorky.media/nz/2002/21

in the USSR. Unlike the officially registered public organizations, the individuals participating in such underground movements and groups not only did not accept the dominant communist ideology or contribute to the implementation of that ideology and state policy, but often openly confronted it. Such groups were formed on a voluntary basis and advocated clearly outlined values and ideas, which is one of the important preconditions of civil society.

The majority of the underground organizations and movements formed in Soviet Armenia in the 1960s consolidated around national ideas.[12] These organizations were mainly established by the descendants of the Armenian Genocide survivors, the repatriates who relocated to the Armenian SSR during the repatriation of the 1940s, and the Diaspora Armenians who came to Armenia to study; they reflected their members' dissention regarding the USSR's policy of silencing the 1915 Genocide. The 1960s are also marked by episodes of larger-scale spontaneous civic self-organization. 1965 is one of such examples where a rally of more than 100,000 people took place in the Opera Square to commemorate the 100th anniversary of the Armenian Genocide.This gathering eventually turned into a round-the-clock rally – the first event of such type and scale in the territory of the Soviet Union.[13]

In the 1950s and 1960s, a number of underground organizations (Union of Armenian Youth, Armenian Patriotic Party, United National Party, etc.) were established in Armenia, which, in fact, were civil society "germ-cells". These organizations included various age and social segments of society: young people and the elderly, students and lecturers, clergy, workers, etc.[14] They began to translate into Armenian, then publish literary works on national topics banned in the USSR: Magda Neiman's "Armenians", Franz Werfel's "Forty Days of Musa Dagh", Khachik Dashtents' "Khodedan", Hovhannes Shiraz's "Armenian

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[12] Манукян, С., "Возникновение националистического дискурса и подпольного движения в Армении в начале 1960-х годов," *Южный Кавказ: Территории. Истории. Люди*, Тбилиси: Южно-кавказское региональное бюро Фонда им. Генриха Белля, 2006, ст. 81-92; Paturyan, Y., Gevorgyan, V., Armenian Civil Society: Old Problems, New Energy After Two Decades of Independence. Springer International Publishing 2020, p. 17

[13] Paturyan, Y., Gevorgyan, V., "Armenian Civil Society: Old Problems, New Energy After Two Decades of Independence," Springer International Publishing 2020, p. 17

[14] Hovhannisyan, E., "Construction of a new discourse on Russia in the Armenian *samizdat* in 1989 within the context of Armenian-Azerbaijani confrontation", *HBF Tbilisi, South Caucasus region, Yerevan office, Armenia*, 2019, https://ge.boell.org/en/2019/06/12/1989-t-haykakan-samizdatowm-rhowsastani-handep-nor-khosowyti-dzewavorowme-hay

Dantesque", etc.[15] Because of censorship and lack of information, the underground organizations through their publishers sought to bring into the open topics forbidden in the USSR – those on independence, secession from the Soviet Union, reuniting Karabagh and Nakhichevan with Armenia, etc.[16] While these groups raised the issue of reuniting Karabagh and Nakhichevan with Armenia,[17] nevertheless, the main theme of the 1960-70s underground movement was the Genocide which was the core of the national liberation discourse; so it is not by chance that the predominant and consolidating public topic of the 1988 movement was the Genocide, too,[18] although the declared pan-national struggle sought reunion of Karabagh with Armenia.[19]

During the Gorbachev Restructuring of the 1980s, these organizations' work was actually carried on by a number of new public organizations established in Armenia: "Mashtots", "Zangakatun" (Bell Tower), "Amberd Rehabilitation Fund" and "Veratsnund" (Renaissance).[20] Starting from 1987, these organizations' dissentient press started to be published, too.[21] Then, during the Karabagh Movement that began in 1988, numerous "Karabagh" subcommittees were initiated and self-organized by citizens in support of the leadership of the Karabagh Movement in many employee collectives of Armenia.[22]

During the Gorbachev Reconstruction of the 1980s, the work of these organizations was essentially continued by a number of new public organizations established in Armenia: Mashtots, Zangakatun, Amberd Rehabilitation Fund, and Veratsnund. Beginning in 1987, these organizations began publishing dissident media. During the Karabagh movement that started in 1988, in many working groups of Armenia on a voluntary basis, on the initiative of citizens, "Karabagh" Committees were self-organized to support the leadership of the Karabagh movement.

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15 Манукян, С., ibid.
16 Манукян, С., ibid.; Тер-Абрамян, Г., ibid.; Hovhannisyan, E., ibid.
17 Манукян, С., ibid.
18 Marutyan, H., Pictography of the Armenian identity, Yerevan, "Gitutyun" publishing house of the RA NAS, 2009
19 Hovhannisyan, E., Ե., ibid.
20 Galoyan, A., The Idea of Armenia's Independence in *self-published* newspapers: *21th* Century 2015; Hovhannisyan, E., ibid.
21 Hovhannisyan, E., ibid.
22 Ibid.

The process of gaining independence and the context of the first years of independence in Armenia

After independence was achieved, in Armenia as in the other Soviet republics, public, non-governmental organizations were springing up like mushrooms. As of May 31, 2000, starting from 1991, about 2,300 POs were registered in Armenia.[23] To comply with the Government's requirement on re-registration issued in 1999, as of the same May 31, 2000 only 326 (ca. 14%) of these organizations got re-registered.[24] That is, about 85% of the organizations registered in the 1990s that disappeared for whatever reason.

During the first years of independence, the process of formation of the Armenian civil society was somewhat influenced by the Spitak earthquake of 1988, the Karabagh war and the influx of Armenian refugees from Azerbaijan, the growing level of poverty, etc. To ensure adequate response to the social needs, numerous charitable organizations appeared in Armenia. Particularly after the earthquake, Armenia was the focus of the world; various international and/or foreign NGOs began to provide humanitarian aid to the earthquake victims. These international or foreign organizations became the prototypes for local charities.

Spontaneously formed civic initiatives aimed at assisting Armenian refugees from Azerbaijan were just as important. These organizations, unions, and spontaneous civic initiatives of the earlier stage constituted the response to the difficult situation faced, so at the time hardly anyone would consider their actions to be a manifestation of civil society activities. However, later on some of these groups got formalized, having registered as public organizations.

Following the 1994 ceasefire, some changes took place in the life of the Armenian civil society. Several international, in particular – Diaspora-based and/or foreign organizations, opened their offices in Armenia, and the information on the western democratic system flooded the country.[25] Unlike the charitable organizations that emerged in the first phase, these organizations already had experience in human rights, advocacy and assistance to the development of democracy; they also provided training for young people, women and other target groups. These international

[23] Blue, R. N., Payton, D. E., & Kharatyan, L. Z., Armenia NGO sector assessment. Report. Yerevan: World Learning, 2001, p. 15

[24] Ibid.

[25] Ibid.

organizations also contributed to the formation and development of the local civil society, involving the local POs in their training courses and financing the implementation of the POs' projects.

The first project to assist public organizations in Armenia was launched by the Armenian Assembly of America through the "NGO Center" created in 1994. The Center carried out training and other assistance projects for the newly established Armenian NGOs. Afterwards, various Armenia-based structures of international assistance, USAID and EU included, initiated implementation of civil society development programs. Nevertheless, during the first stage of liberal transformations, obviously the greatest contribution to the local civil society formation was that of the NGO Center.

Since the Armenian civil society was formed in the first years of independence, i.e. in conditions of a most severe socio economic crisis, when the great majority of the country's economic and industrial institutions was inoperative and the Armenian society languished under the unbearable weight of the economic crisis, war and earthquake, the spontaneously emerged civic initiatives either faded away/ceased to exist very quickly, or upon registration and formalization, became the main source of income generation for people. Under these circumstances, Armenian society, suffering from sweeping unemployment, was hankering for self-assertion and new areas of work, as well as for new sources of income, and the "not-for-profit" POs that abruptly sprouted in the vicinity of various lucrative organizations, provided yet another possibility for income generation.[26] Such development of the civil society was greatly facilitated by the international developmental organizations, which, through financing the PO activities, also began to notably guide their activities.[27] Thus, since the mid-1990s, in many cases the definition and evolution of the "public good" has not been ensured from the bottom up, as it should have been in a healthy civil society, but from the top down, in this case – by international actors that defined public needs and the adequate response thereof.[28] That is, the

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[26] Kharatyan, L., Shagoyan, G., "Family" in the context of contemporary public organizations: *Issues of studying families, Proceedings of the republican scientific symposium in memory of Emma Karapetyan, ՀՀ ԳԱԱ Institute of Archeology and Ethnography of the RA National Academy of Sciences,* 2001

[27] Blue, R. N., Payton, D. E., & Kharatyan, L. Z., Armenia NGO sector assessment. Report. Yerevan: World Learning, 2001

[28] Ibid.

Soviet monolithic state was to some extent replaced by international donor organizations, which financed and certainly affected the activities of public organizations. Needless to say, the Spitak earthquake, the refugees, the war, and other problems of this period continued to be spotlighted by POs, but in parallel with the existing problems, new ones were being formulated and tackled, to better comply with the agenda of international donors. Thus, the first assessment of the RA PO sector carried out in 2000 by the World Education Organization shows that the most common type of activities of the organizations established in the 1990s was provision of services (39%), and the majority of POs saw marginalized groups as their main beneficiaries (43%).

In 1996, the Republic of Armenia Law "On Public Organizations" was adopted. The law stipulated that "A public organization is a voluntary association of people, created on the basis of common interests, with the aim of satisfying their spiritual or other non-material needs". It is noteworthy, though, that the law succumbed to the PO-related perceptions and wording of the Soviet period, specifically referring to the "child and youth" organizations and stating that "A public organization shall be considered a child and youth one if children's membership is stipulated in its charter and if its goal pursued is implementation of activities among children". Moreover, probably guided by the experience of Pioneers and Komsomol, a special provision of the law prohibited participation of parties in the activities of the child and youth public organizations. The law also sought to regulate the relationships between the State and the POs, stating, in particular, that "the State ensures the protection of the rights and legitimate interests of public organizations", as well as prohibiting any intervention on behalf of the government agencies and officials in the activities of public organizations.

Summary

The liberalization period of the 1990s laid the foundation for the formation and sustainable development of civil society in the Republic of Armenia, which resulted in the establishment and registration of about 2,300 public organizations from 1991-2000. The law adopted in 1996 on public organizations also ensured legal regulations for the POs' activities. However, due to the course of gaining independence, the hardships of its first stage and the overall context, the civil society

formation in Armenia has had certain specificities. Three of these are specified herein: usage of the term “public organization” and the Soviet burden it is still associated with; the experience of the Soviet Armenia’s dissident movements and the Karabagh Movement; and the socio economic hardships of the first stage of independence and the active involvement of international donors. Each of these factors had influenced civil society formation in Armenia, and this influence is still traceable today.

THE MAKING OF THE ELECTORAL SYSTEM



KHACHATUR BEZIRJYAN

Deputy of the RA Supreme Council, 1990-1995

Deputy Chairman of the RA Central Electoral Commission, 1990

Member of the RA Central Electoral Commission, 1991-1994

Chairman of the RA, Central Electoral Commission, 1996-1999

Before we turn on to the discussion of the electoral systems of the Third Republic, let us analyze the electoral legislation inherited from the Soviet period.

Initially, a purely class approach was adopted by the Soviets. Later the class restrictions were lifted under the pretext of democratization.

Elections continued to be held on the basis of zero alternatives with one candidate nominated from each constituency. These candidates were elected for nomination by party organs to represent "the bloc of communists and non-partisans." It should be noted that prior to the nomination of candidates the same party organs would determine the manner of representation of various social groups in the elected bodies, the numbers of workers, rural workers, intellectuals, communists and non-partisans. Having regard to these numbers, candidates would be elected to obediently vote "for" all the drafts tabled by the authorities. Later the candidates elected for nomination by party organs would formally be nominated, each by the workers' collective/collectives of his constituency, although in conformity with Article 100 of Brezhnev's USSR Constitution, "the right to nominate candidates for delegates was conferred on the Communist Party of the Soviet Union, trade unions, the Union Lenin Communist Youth Association, cooperatives and other non-governmental organizations, workers' collectives, as well as assemblies of military personnel in military units."

Normally, the "voter turnout" was presented as 99,9% with at least 99% of them "having voted" in favour of the only candidate, representing "the bloc of communists and non-partisans". Certainly, these were pretend elections.

Towards the end of the existence of the Soviet Union the electoral system underwent a certain degree of democratic transition, particularly through Gorbachov's reforms from 1988-1989. For the first time in the history of the USSR elections became competitive with several candidates competing for one seat. For example, the elections of the USSR people's deputies held in the spring of 1989 were competitive: for 1,500 seats to be voted for in territorial and national constituencies 7,531 candidates were nominated, which meant that on average five candidates were competing for one seat.

It was obvious that at the end of the '80s the USSR faced a deep economic and political crisis leading to the collapse of the Soviet empire.

The term of office of the members of the ASSR Supreme Council of the eleventh convocation was expiring on February 24, 1990. On February 13, 1990, the ASSR Supreme Council adopted a decision on extending the SC' mandate until May 20, 1990. In view of the fact that the law on the elections of the members of the ASSR Supreme Council was not in line with the requirements of the time, as it was foreseen for administering pretend elections, it was necessary to develop and adopt a new one, allowing administering free and fair elections. The new political forces were working in that direction and were trying to achieve this by all means. This was also accelerated by "Perestroyka" launched in the Soviet Union at that time.

This led to the establishment of a task force under the chairmanship of the ASSR Supreme Council, consisting of the representatives of the Communist Party, trade unions, the new non-governmental political force – the Armenian National Movement, as well as legal experts. The activities of the task force were supervised by Sargis Khachatryan, head of the control subdivision of the CPA Central Committee. Although the ANC representatives in the task force were few, they worked actively towards developing a draft that would offer equitable competitive conditions for all nominated candidates, introduce mechanisms which would substantially reduce electoral violations, and prevent by all possible means the transfer of the illogical process from the so-called "electoral legislation" into the new one. They were not always successful. For example, as has already been indicated, candidates for MPs were nominated by the workers' collectives in a particular constituency in a situation where many in that collective were not the voters of that particular constituency. Thus, a huge army of voters were nominating candidates for others to

vote for him/her, which was illogical. The problem was partially resolved. This mechanism of nomination was not possible to eliminate since the representatives of the ruling wing, which were a majority, were in favour of this arrangement. This was natural as the leaders of workers' collectives were the representatives of the party-Soviet bureaucracy (nomenclature) and they were making every effort to abide by the instructions coming from above. Nevertheless, it was possible to find yet another mechanism for nomination of candidates. That was the procedure of self-nomination to be safeguarded by the signatures of voters of the constituency from which a citizen with passive electoral rights wished to be nominated from. Naturally, the elections were to be held through a majoritarian system, since the proportional system required a multi-party system in the state, which was yet at the stage of making. Finally, the draft was submitted to the Parliament, and the ASSR Supreme Council of the eleventh convocation adopted it as the ASSR Law "On the Elections of the ASSR People's Deputies'.

The Supreme Council of The First Convocation of Armenia

A total of 260 single-mandate constituencies were formed in ASSR and the Autonomous Marz of Nagorno Karabagh (AMNK). The constituencies in the territory of the latter were formed on the basis of the 01/12/1989 decision of the ASSR Supreme Council on the Reunification of the Armenian SSR and Nagorno Karabagh. The elections were held on the basis of an absolute majoritarian electoral system or, in other words, a two-stage majoritarian electoral system. The law prescribed the requirement of a minimum threshold of turnout (50%).

The first round of voting was held on May 20,1990, and in those constituencies where any candidate failed to receive the absolute majority of votes, the **second round of voting** was held on June 3. In the constituencies where the quorum was not met, new elections were held. The ANM representatives won mainly in the capital and other towns, while the representatives of communists won in constituencies in rural areas. And this was natural since the inhabitants of urban communities were more inclined towards reform in contrast to their counterparts in rural communities who were under bigger influence of the authorities, and it was easier to commit electoral violations there. There were also independent parliamentarians not representing

these two political forces. Prior to the adoption of the Declaration of Independence of Armenia, the newly elected parliament acted as the ASSR Supreme Council of the 12th convocation. It became operational on July 20, 1990.

Although only two political forces were initially represented in the Parliament – the Armenian National Movement and the Communist Party – soon the factions of ANM, ADLP, ARF, ADPA, and CPA were formed. The following MP groups were formed: Republic (38 MPs), Artsakh (11 MPs), Liberal-Democrats (10 MPs), National Progress (10 MPs). The ARF faction was transformed into an MP group (12 MPs).

On August 4, 1990, the Supreme Council elected its chairman. There were two nominated candidates: Levon Ter-Petrossian from ANM and Vladimir Movsisyan from CPA. Levon Ter-Petrossian was elected as Chairman of the SC. Two days later Babken Ararktsyan (ANM) was elected as first deputy and Gagik Harutyunyan (ACC) as deputy.

On August 23, 1990, in its first sittings the Supreme Council adopted the Declaration of Independence of Armenia, which heralded the beginning of the foundation of the independent Armenian state. On the basis of the Declaration, on the next day, August 24, the ASSR Supreme Council adopted a resolution to rename the Armenian Soviet Socialist Republic into the Republic of Armenia. It also decided that the then ASSR Supreme Council of the 12th convocation would be regarded as the Supreme Council of the Republic of Armenia of the first convocation.

The RA Supreme Council of the First Convocation

On March 1, 1991, the SC adopted the resolution on Holding a Referendum in the Territory of the Republic of Armenia on Exiting the USSR.

On June 25, 1991, SC adopted the resolution on appointing the RA presidential elections on October 16, 1991. To implement this, on August 1, 1991 the RA Law On the RA President and on August 2, 1991 the RA Law On RA Presidential Elections were adopted.

On September 23, 1991, the Republic of Armenia declared itself an independent state on the basis of the results of the referendum of September 21, 1991 on exiting the USSR.

On November 11, 1991 a special sitting for the oath-taking ceremony of the RA President was convened. Prior to this, on October 16, 1991, Levon Ter-Petrossian was elected as President of the Republic of Armenia, while Gagik Harutyunyan was elected as Vice President.

The vacant positions of the Chairman of the RA Supreme Council and the deputies thereof had to be filled: on December 24, 1991, Babken Ararkstyan was elected as Chairman of the RA Supreme Council, while Ara Sahakyan was elected as the first Deputy Chairman and Artashes Tumanyan as Deputy Chairman in April 1992.

The National Assembly of the Republic of Armenia of the First Convocation

On April 4, 1995, the RA Supreme Council of the first convocation adopted the RA Law On the Elections of the MPs of the RA National Assembly. It was to act as the legal basis for the elections to the National Assembly of the first convocation. The previous parliament (the RA Supreme Council of the first convocation) was elected in the Soviet period on the basis of the law adopted by the ASSR SC.

In line with the new law, the National Assembly had 190 members. The elections of the National Assembly were held on the basis of majoritarian and proportional systems.

In total 150 members of the National Assembly were to be elected by the majoritarian system with one MP from each constituency.

Forty members of the National Assembly were to be elected by the proportional system from a single multi-mandate constituency encompassing the entire country from among candidates nominated through party lists.

It follows from the aforementioned that the proportional system was introduced into our electoral system. This was natural since a step had already been taken in the direction of the multi-party system, although the non-governmental political organizations (this was the name given to political parties by the legislation of the time) were at different stages of development and generally far from being fully operational.

In conformity with the law, the candidates for MPs were nominated by means of defending the proposal to nominate with voter signatures.

The candidates for MPs in the lists were regarded as nominated if they had gathered 10,000 – 12,000 voter signatures.

The candidates for MPs in the majoritarian system were nominated if 500 – 700 voters of that particular constituency signed for his/her nomination.

This procedure of nomination of all candidates was incomparably more democratic than the one applied previously when the majority of candidates for MPs were being nominated by workers' collectives.

As has been indicated, the significant part of these collectives were not the voters of that particular constituency, while another important factor was that in many cases the management of an organization was able to exert pressure on and dictate its will to the workers' collective, which would then nominate the citizen preferred by the management. In their turn, the management of an organization would get their orders from above.

Thus, 40 MPs were to be elected by the proportional system from closed party lists. The set threshold was 5%, i.e. a party or party bloc would be regarded as having passed the threshold if they got at least 5% of the valid votes out of the total number of votes for non-governmental political organizations. It was still progressive that even a small segment of the Armenian parliament was elected by the proportional system.

A total of 150 MPs were to be elected by the majoritarian system. In the first stage, the candidate having received maximum votes for but not less than 25% of the valid votes would have been regarded as elected.

If two candidates were being voted in the first stage with none of them receiving more than 25% of valid votes, then elections in that particular constituency were regarded void and the MP's mandate was not conferred on anybody.

If more than two candidates were nominated and none of them was elected, then a repeat vote was held for the two candidates having received most votes (the second round), and the candidate having received the majority of votes would win.

At any stage of elections when one candidate was being voted for, s/he would be regarded as elected if more than half of the valid votes were received. This was the compromise between relative and absolute majoritarian systems. On the one hand, it facilitated the candidate's election compared with the absolute majoritarian system, and on the other hand, it would not allow election with few votes (less than 25% of

valid votes) compared with the relative majoritarian system. The election of any candidate with very few votes would have a legitimacy gap.

The mechanism for the formation of commissions was incomparably more democratic. If in the past they were formed by party bodies in a one-party system, then under the 1995 law, the Central Electoral Commission was to have at least seven members – the Chairperson and six members. The candidates for the Central Electoral Commission were nominated by the MPs of the Supreme Council with 10 MPs nominating one member. If the number of the nominated members was less than six, the vacant positions were to be filled by the President of the RA.

"The activities of the Central Electoral Commission are governed by the Chairman of the Commission and, in his/her absence – by his/her deputy. The Chairperson of the Central Electoral Commission is selected and approved from among its members".

The **territorial electoral commissions** were to have at least seven members. Prior to the expiry of the time-limit for the registration of the candidates for members of the National Assembly, representatives of the non-governmental political organizations wishing to participate in elections by the proportional system were included in the commission on the basis of the principle of equal representation.

The **precinct electoral commissions** were again to have **at least** seven members and to be formed by the same procedure foreseen for the territorial electoral commission. Thus, multi-party commissions with equal representation were formed.

It should be mentioned that at the end of elections the signed voter lists were posted in polling stations for information. During subsequent elections anyone paying the fee set for copying the signed voter lists would receive the copies thereof. However, later, in the 2000s, these lists were no longer made public and they became classified, which indeed was unprecedented. The secrecy of the vote in the world is ensured by not showing the content of the voted ballot to anyone, although after leaving the polling station it was allowed to tell who you have voted for (true or false). For example, prior to counting the ballots in the ballot boxes it is possible to publish the result of the election according to exit-polls. Only in 2016, by virtue of the efforts of non-governmental organizations, the signed voter lists were declassified under the Electoral Code.

The 1995 law "On Elections of the Members of the RA National Assembly" guaranteed transparency of elections during the sessions of

electoral commission, including while registering the candidates for MPs, sealing the ballot boxes, opening them and vote counts, determining the results of elections by conferring the right to participate in them to non-governmental political organizations, the press, representatives of television and the radio, observers, proxies of the candidates registered in that particular constituency. Thus, the presence of many people would make it difficult to rig elections. Vote-buying became widespread in the 2000s, which was organized outside the polling stations with no practical tools to oversee such incidents.

The 1995 Constitution set the terms for LSGs, the RA NA and the RA President as three, four and five years respectively. The philosophy of the "Founding Fathers" of our Constitution was that the authorities should not change at different levels and in all branches simultaneously, as a result of which the Madison system of checks and balances applied. By the 2015 Constitution all these terms of office were equated to five.

The elections of the RA National Assembly of the first convocation were held on July 5, 1995. Five political parties passed the 5% threshold, and the mandates were distributed in the following manner: Republic Bloc – 50 % (20 MPs), Shamiram – 20% (8 MPs), CPA – 15% (6 MPs), ADU – 7,5% (3 MPs), NSDU (3 MPs). The "Reforms" MP group was also created (31 MPs) and 21 MPs were not included in any faction or MP group. Later the "Yerkrapah" MP group (17 MPs) was created. On July 27, 1995, Babken Ararktsyan was elected as Chairman of the RA National Assembly, and on the same day Karapet Rubinyan and Ara Sahakyan were elected as Deputy Chairmen of the National Assembly.

At the beginning of 1998 a political crisis started in Armenia, conditioned by the differences of approaches to the issue of the resolution of the Karabagh conflict and the progress of Armenia. L. Ter-Petrossian and his supporters proposed to reach compromise, peaceful settlement, good neighbourly relations with neighbouring countries, and lifting of the blockade. The opposing forces led by Robert Kocharyan, Serzh Sargsyan, Vazgen Sargsyan and their supporters believed that the country could develop in the circumstances of maintaining the *status quo* for an indefinite period of time. These discussions led to the change of the ratio of the political forces in the Parliament not in favour of the RA President and he resigned, followed by the resignation of the leadership of the National Assembly.

As it was declared then, the “forces of peace” surrendered to the “forces of war.” Less than 20 years were required to be convinced of this. It is now obvious that the political forces that came to power in 1998 were not far-sighted. Unfortunately, we understood this at the cost of huge losses, including human.

The RA National Assembly of the first convocation started its activities on July 27, 1995 and ended them on June 9, 1999. Nine regular and 12 ad hoc sessions, 64 regular, 14 ad hoc and two special sittings were convened. The National Assembly of the first convocation adopted 302 laws and ratified 154 international treaties. It adopted 658 resolutions, of which 331 were normative and 327 protocols.

The political forces that came to power in those years aimed at making a transition to a new socio-political and economic formation, which was achieved. Another aim was political liberation, i.e. endowing citizens with the right to free vote and protection of this right. Although this was a difficult period of transition, these aims were still possible to achieve.

THE ROAD TO FREEDOM

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The Soviet system of universal state ownership and universal "responsibility", which was a real obstacle on the path to progress for human civilization, dissolved 70years after its formation by failing to bring to life the desire of the entire humanity to build communism.

The events of the last 20 years of the 20th Century stimulated new ordeals for the communist economic order, which, having exhausted all possible material and moral resources necessary for progress, finally abandoned the arena of history leaving behind it memories and, more importantly, creating an economic vacuum in the post-Soviet space. In order to develop, to have progress and to find solutions both individuals and collectives of individuals – associations, nations, national unions – must have an opportunity to try and to make mistakes. That said, freedom is the *sine qua non* of progress. Everyone needs to be free in their positions, in decision-making and implementation, not forgetting about responsibility at the same time. Throughout its existence the Soviet system deprived human beings and their groups of freedom, coercing them instead into abiding by the rules of the party and the collective, which at the end of the day led to state-party dictatorship. As a result, a social order developed, in which nobody was responsible for anything. Instead, there was an illusory collective universal responsibility or, simply said – irresponsibility. Remembering this is still important in the light of today's overestimation of the state resources and the scope of action, while the free potential of the people and free citizens is once again being pushed to the background.

At the beginning of the 1990s when, in fact, the Soviet Union no longer existed, and our country – the Republic of Armenia – faced a multitude of uncertainties in that stage of development, the most difficult problem was finding our own path. This responsibility was on the democratically elected new Supreme Council and the newly

formed Government. The issue to be resolved by the new authorities concerned the state participation: whether to continue with the old model of governance, in which case the state was everywhere, or build a new one with considerably reduced state participation. On those days making the choice was not so simple: denouncing the legacy of the previous long years was not that easy, especially in view of the fact that the alternative was replete with uncertainty leading to a new round of tribulations for the state and the nation. The choice was made in favor of progressive ideas, a new economic order, which became known as market economic order. There needs to be a more precise wording in case of Armenia: transition to free economic order, which essentially means that at the time our country demonstrated huge courage by taking the path to reformation.

Typical of the Soviet system were lack of freedom, and restrictions of freedom. The former system refused to admit the universal truth that Freedom is a force of production. The Soviet system had deprived its citizens of this possibility and castrated the society. It was not by chance that the dissolution of the communist system created massive opportunities and new development horizons for all the republics of the previous Soviet Union, and the people thereof. The dissolution of the USSR gave an opportunity to the republics driven into an impasse to enter a new historic arena. The new situation was peculiar in that the Center, which had exercised tough control on everyone for 70 years, no longer existed, whereas the construction of the new system was full of uncertainty and lack of experience. For many the new became a continuation of the old, the State still dominated, which subsequently became an insurmountable obstacle for democratic reform and for freedoms, and contributed to the establishment of a new authoritarian system. This was the consequence of a gradual deviation from and, in many cases, even denouncement of the ideology of freedom whilst building the new system, as a result of which a facade democracy was established, manifested through the act of “electing” the same person or a member of the ruling team as head of the state. The countries, which after the dissolution of the Soviet Union took this path, several years later appeared in the same swamp in which the USSR had languished in the last years of its existence. Of course, this was quite foreseeable, especially for people that had lived in the Soviet Union. However, not all countries managed to get out of this vicious circle by finding the strength to defy and overcome the resistance

of the ruling elites of those countries and by changing the direction of the development of the country.

The international experience demonstrated that freedom is the impetus of sustainable development: the free human being, free market economy along with its democratic institutions – political, judicial, socio-civic – guaranteeing public-private partnership and enlargement. It goes without saying that the application of these ideological principles requires a new state, new in its substance and institutions, people, citizens, and with a new civil contract. This meant that the whole meaning and the aim of post-Soviet reform was to be the development of a new role for the State. It was necessary to come up with the answers to questions that interested everyone at all times: what is the State going to do? Where is the State going to be? Who and how are going to govern the State?

The first two questions have been and remain arguable and a subject for continuous discussion. As stated by D. North, Nobel Prize winner in economics: "To look at the issue of the need for the State in economics, which is essential for resolving the problems of humanity, the court of history has left for the consultation room and has not yet returned".[1] The answer to the question is also conditioned by the way the perceptions of the State have developed over history, which in some cases, mildly speaking, have been exaggerated: the State has been attributed with acts, which the latter has never implemented – for example, the story of lighthouses built in England. This and similar episodes demonstrate that the essence of the state is often depicted through myths rather than reality. The motivation for this is political: only political reasonableness justifies the "state capture," ineffective use of resources, corruption, restrictions of freedoms for both citizens and economic entities. Many of us have witnessed this in this new era.

In fact, perceptions of the State – starting from its emergence up until now – have been changing, which is naturally conditioned by the stages of development of humanity and the peculiarities thereof. What is important is not only taking these circumstances into consideration but also assessing and understanding these transformations. The changes in the function and essence of the State depends on many factors. However, the

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[1] North D., Institutes, Institutional Change and Economic Performance, Transl. from English by A.N. Nesterenko; preface and scientific ed. By B.Z. Milner. - M.: Economy books foundation "Elements", 1997, p 21. https://litresp.com/chitat/ru/%D0%9D/nort-duglas/instituti-institucionaljnie-izmeneniya-i-funkcionirovanie-ekonomiki

important thing at all times was finding the golden medium between the State and the Market. The very golden medium, with no overestimation or underestimation: this is the most complex and important problem that needs to be resolved by every country, state and society. This should have been the one and only aim of the reforms implemented in every post-Soviet state. These reforms were to answer the following questions: what is the regulatory role of the State in the economic system? What are the questions the State should be concerned or not concerned about in this or that situation? What effective decisions must be taken? It is obvious that there are numerous, sometimes controversial and sometimes complementing viewpoints on this issue, which attempt at presenting the limits of the State impact on the issue of regulation of economy (depending on this, the main reform opportunities will be big or small). Economic theory has undergone interesting transformations in this regard.

At the time when systemic changes started in our country, the perceptions of the State and, depending on this, the choice of development models were at a juncture where it had to be determined what the role of the State should be in economic and social life. In this regard, mention should be made of the opinion of Carl Jung, a prominent psychiatrist of the 20th Century of the role of the state: "The human being thinks of the state as a system of support and wants others – the State – to think and assume responsibility instead of him/her. The society is content with the fact that they are dressed, fed and taught as a social unit and entertained in line with mass standards. When the State assumes the role of decision-maker, it means that the person transfers his/her moral responsibility over to the State".[2] Why did this happen? Were these perceptions objective? Certainly, it must be said that Jung (and not only him) thinks of this as a negative phenomenon. However, the truth is that any state demonstrates a propensity for increasing its role and the reasons for this are many. In what comes below we will mention some of them:

1. The increased role of the State may be conditioned by the challenges of the social environment, i.e. technological progress, demographic changes, changes in the economic order, etc.[3]
2. The strengthened role of the State depends also on internal political processes: changes in the political culture, approaches of different non-governmental and political organizations and individuals to the

[2] Yu. Hovakanyan., Philosophy of Psychoanalysis, Yerevan, 2001, p. 55.
[3] A. Markosyan, Armenia Facing the Challenges of XXI Century, Yerevan, 2004, pp. 10-19.

functions of the State may be decisive in the formation of a "strong State."

3. The increased role of the State can be connected also with the role of ensuring the economic development thereof. As indicated by F. Gershenkron, an American economic historian, the countries that adopted the path to industrialization or other large-scale technological and economic reform, as a rule have a much larger public sector.[4] In this case the State acts as the locomotive of economy, directing all the resources at its disposal to the re-equipment of economy, academic programs, increased investment and structural policies. This is the path taken by the post-war France, Germany, Japan and the former USSR. These examples prove the theories about the imperfections of the market: fast economic development is often achieved with the support of the state rather than on the basis of an "invisible hand."
4. The broadening of the functions of the State may also be dictated by the internal regularities of its development. As with any other system, the State (as represented by its institutions) is also inclined to self-protection and self-reproduction. In this way, the State may be regarded as a unique monopoly whose behavior is in many cases similar to the conduct of other monopolies in the market.
5. Recently in the context of universal climate change, floods, desertification of considerable areas of land, appropriation of the world's water resources, concentration of efforts for joint exploration of space and resolution of the global energy crisis, the importance of states has increased.

The above-mentioned confirms that the countries who have found themselves at such juncture may find the substantiations of their decisions regarding the further choice of their paths exist in the field of theory or practice. Undoubtedly, the choice of each state has had special justifications, and the assessment of this choice is in the living standard of that particular state, as well as the procedures for the formation of the authorities, economic and civil liberties, etc.

The choice of the Republic of Armenia in terms of the path to be taken has had its peculiarities. These were conditioned by objective and subjective circumstances. However, prior to discussing them, we would

[4] Gerschenkron A., Europe in the Russian Mirror, Cambridge Univ., Press, 2008, p.123.

like to stress which is the most important, and what predetermined the further fate of the reform. The former political elite of the Republic of Armenia conditioned the development of the State by democratic reform, market economic order, and having a social state based on the rule of law. The achievement of these goals required new relations in the processes of formation of the State at all levels, including state, non-governmental, social and political. The initial success of the reform was conditioned by the fact that even disruption of economic ties as a result of the collapse of the USSR, alongside unfavorable, complex and difficult circumstances conditioned by regional conflicts, did not prevent the authorities from the desire to achieve the above goals. Moreover, even the war years did not suspend the processes of making radical political and economic changes. This steady approach ensured the success of the reform, resulting in the change of situation, which seemed insurmountable. The country that had found itself in dire socio-economic conditions was able to register growth in 1995, which ensured the growth of further years. Had it not been for the determination, steady will, and devotion to ideas of the 1990s, the newly independent Republic of Armenia would not have been able to find its place amidst lengthy trials and uncertainty. In this regard, of interest is the analysis of the European Bank for Reconstruction and Development (EBRD) – see *Table 1.* The analysis concerns the indicators for transitional progress in the countries of Central and Eastern Europe, the Baltic and CIS states. The Bank essentially summarizes the results of changes in the former communist countries by the year 2000 on the basis of diverse criteria enabling the assessment of what happened in different countries.

The share of the private sector within the GDP is calculated on the basis of the statistics from official (public) and unofficial sources. This share includes the revenues of private firms from officially registered activities, as well as revenues from unofficially registered activities where reliable information is available. By private firms we mean all the enterprises where the control package is in the hands of private physical or legal entities.

The approximate nature of the European Bank for Reconstruction and Development is accounted for by insufficient data, especially with regard to the scales of unofficial activities. In certain cases, the assessment of the European Bank for Reconstruction and Development may differ from the data provided by state sources. Usually, these differences are conditioned by variances in the definitions of “private sector” and

“non-state sector.” For example, the concept of “non-state sector” in the CIS countries includes collective economies (kolkhozes), as well as companies with limited shares privatized.

As regards Armenia, it must be noted that the above analysis is the reflection of the real situation. For example, the intensity of the privatization processes of large and small enterprises in the initial stage was high, while later - especially after 1998 - it had other manifestations. The fate of structural reforms was the same. The competitive policy started to develop in a completely different way, contrary to the philosophy of reform, according to which only free market relations are capable of ensuring long-term sustainable development. The new administrators of the State preferred the policy of patronage, which was contrary to the spirit of competition (according to the data in the table, Armenia scored one point). This score remained the same in the subsequent years, conditioned by the actions of political elites.

Another observation, answers questions related to the advantages or disadvantages of speedy or slow reform: the experience of reform of the former communist countries confirms the viewpoint that the countries, which started the process of reform early and implemented it fast, showed much better results. This is proved by the data in the table above, which concern both Armenia and other countries. In slow-pace countries the reason was the existence of the former nomenclature delaying - by all means - the implementation of reform, due to understanding that this was the last possibility for the continuation of their existence. Certainly, they understood very well that the changes underway were irreversible.

Apart from this, speedy reform, including liberalization of prices and commerce and removal of restrictions on business regulation resulted in the redistribution of resources from inefficient communist dinosaurs to new companies (firms), which stimulated speedy restoration of the economy.

Casting a final glance at the reforms, it is worth mentioning that their success was conditioned by the consistent manner of actions by the authorities, their targeted nature, and the public demand for speedy transformation of the Soviet system. Within a very short time the State appeared in its new image, aiming at enabling its citizens to live and create in a state of freedom. The New State – New Armenia – opted for the road to democracy, rule of law, free market economy and social state, and the implemented reforms were to serve the achievement of these goals only.

Table 1
Indicators of Transitional Progress in the Countries of the Central and Eastern Europe, the Baltics and the CIS in 2000

Country			Enterprises			Foreign trade and markets			Financial Institutions	
	Population in mid-2000 (mln people)	Share of the private sector in GDP in mid 2000 (EBRD evaluation in %)	Privatization of large enterprises	Privatization of small enterprises	Management and structural reform of enterprises	Price liberalization	Foreign trade and the system of currency rates	Policy of competitiveness	Bank reform and liberalization of interest rates	Stock markets and non-banking financial institutions
Albania	3,3	75	2	4	2	3	4+	2-	2+	2-
Armenia	3,8	60	3	3+	2	4	4	1	2+	2
Azerbaijan	8,1	45	2+	3+	2	3	3+	2	2	2-
Belarus	10,2	20	1	2	1	2-	2-	2	1	2
Bosnia and Herzegovina	4,1	35	2	2+	2-	3	3	1	2+	1
Bulgaria	8,1	70	4-	4-	2+	3	4+	2+	3	2
Croatia	4,5	60	3	4+	3-	3	4+	2+	3+	2+
Czech Republic	10,3	80	4	4+	3+	3	4+	3	3+	3
Estonia	1,4	75	4	4+	3	3	4+	3-	4-	3
FYR Macedonia	2,0	55	3	4	2+	3	4	2	3	2-
Georgia	5,4	60	4+	4	2	3+	4+	2	2+	2-

Hungary	10,0	80	4	4+	3+	3+	4+	3	4	4-
Kazakhstan	14,8	60	3	4	2	3	3+	2	2+	2+
Kyrgyzstan	4,7	60	3	4	2	3	4	2	2+	2
Latvia	2,4	65	3	4+	3-	3	4+	2+	3	2+
Lithuania	3,7	70	3	4+	3-	3	4	3-	3	3
Moldova	4,3	50	3	3+	2	4+	4	2	2+	2
Poland	38,7	70	3+	4+	3	3+	4+	3	3+	4-
Romania	22,3	60	3	4+	2	3	4	2+	3-	2
Russia	145,4	70	3+	4	2	3	2+	2+	2-	2-
Slovak Republic	5,4	75	4	4+	3	3	4+	3	3	2+
Slovenia	2,0	55	3	4+	3-	3+	4+	3-	3+	3-
Tajikistan	6,3	40	2+	3+	2-	3	3+	2-	1	1
Turkmenistan	5,1	25	2-	2	1	2	1	1	1	1
Ukraine	49,2	60	3-	3+	2	3	3	2+	2	2
Uzbekistan	24,9	45	3-	3	2-	2	1	2	2-	2

Source: Transition report 2000. Employment, skills and transition. European Bank for Reconstruction and Development, 2000 (232 pages), pp. 14-15.

Note: The evaluation indicators are presented by a 5-point scale, in which 1 equals any absence of departure from a centralized planned economy, while 4+ signifies acquisition of the standards of a market economy, which are typical of advanced industrialized countries.

LAND REFORMS IN ARMENIA



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1. The principles

The set of principles governing land reform are closely interlinked with the issues related to the development of agriculture in a given historical period, among which a clear distinction should be drawn between general problems and issues of special nature. The universal principles reflect the general trends in the evolution of land relations.

The role and significance of private land ownership increases.

As the analysis has shown, the institution of private land ownership is characterized by cyclical fluctuations in regard to the share of private holdings in the structure of land ownership. It is characteristic that parallel to this there is a historical tendency of decline in the size of land property and parcels belonging to individuals. Quite often such land fragmentation did not contribute to the increase of economic efficiency, but led to negative consequences. It is not incidental that in unorganized societies these events were considered a retreat, and, as an alternative to the given situation, a hasty concentration of land resources was implemented. As a rule, these measures were followed by a catastrophic drop in manufacturing, and a reduction of arable land and livestock. Typical examples are England in the late 11th Century, Sweden in the second half of the 15th Century, France at the end of the 18th Century, and Russia (the USSR) in the early 20th Century.

The role of the peasant owner becomes dominant in the areas of production and distribution of agricultural products. Over the past century, the share of peasant proprietors around the world has risen sharply.

At the same time, the share of state farms, large land holdings and church parcels has been decreasing. It is noteworthy that during that period a process of enlargement of peasant farms was predominant. Indeed, the notion “large” is relative by itself, depending on the country, the lands, number of peasants, and certain historical circumstances. Still, in general, it is evident that in this case certain patterns are present.

First: In industrial countries and societies which have vast land mass, the main producers of agricultural products are peasant landowners.

Second: In countries with relatively limited land and water resources, but a surplus of rural labor (South Korea, Japan, China, Cyprus, Greece, Armenia, Georgia, etc.) partial land ownership develops. Certainly, there exists no place, where these two systems are flawless. For example, In the Eastern part of France (the Champagne region) a partial (fragmented) land ownership system is Moreover, certain economic circumstances have imposed limitations over the possibility for mechanization of work, land allocation size, yield of vineyards, etc., which were brought to life by means of tough practical regulations.

Third: The share of those employed in agriculture has been reducing. In the 20th Century this approach led to two qualitative consequences:

- the role of the land lease institution has diminished,
- the role of the peasant landowner in the production of agricultural products, as well as the organization of their sale has increased.

The gradual reduction of the role and significance of the peasants’ wages and their replacement by mutual responsibilities in the organization of the public infrastructure of the economy. This principle has had a profound impact on the organization of the social structure of agriculture. What did this lead to?

- Elimination of the role of large landownership in the process of accumulation of the material, technical and financial resources necessary for extended reproduction of peasant farms.
- Establishment of a collective-cooperative network of mutual support of villagers in order to secure the produce sale, to finance the farms and provide agricultural services.
- Creation of financial and production infrastructure by strengthening the position of small private landowners and by developing a comprehensive system of mutual assistance and cooperation.
- Implementation of extended reproduction functions of the farm (peasant) economy.

The increasing refusal of large non-agricultural companies to engage in agricultural activities. Due to the operation of this principle, in particular, individual farmers started to make more and more agricultural decisions and assume agricultural trade risks.

Exclusion of the possibility of unequal exchange between agriculture and other sectors of the economy. The implementation of this principle, as a rule, rests on the fact that agriculture is generally a more competitive sector as compared to other sectors of an economy. Under such conditions, states take measures to directly or indirectly intervene in the process of pricing the agricultural produce.

The presence of mandatory elements of the state policy expressed in the form of certain preference of the national producer, with the aim of additional promotion of agricultural activities. Agriculture in the modern world, as different from many other areas of an economy, does not constitute a common market system, as is the case with the fields of information technologies, fuel production, mechanical engineering, transportation, banking, etc. In terms of state encouragement of the national producer by means of setting state orders, agriculture, as you can see, is the fourth of the "reactionary" branches in the economies of modern states, after the military-industrial complex, education, science and health care systems.

Absence of big land masses, micro-contour plots, the existence of many small parcels of land located in the foothills. We have mentioned before that Armenia has always been considered a suitable land for implementing reforms in villages, which is explained by the scarcity of land. In the late 1980s the arable land per capita for the rural population was 0.466 hectares. For comparison, in Russia it is 3.412 hectares, in Ukraine – 1.992, Lithuania – 1959, and Moldova – 0.741 hectares. Only in Georgia (0.334) and Tajikistan (0.225) was the arable land per capita among the rural population less. On average, only 20% of the rural population of Armenia had the opportunity to work in collective and state (Soviet) farms. Even the excessive intake of staff in those farms could not fully utilize the labor resources present in the village. Most of the land lay on mountain slopes shaped as separate land plots, which, certainly, underlined the expediency of urgent land privatization. Hence, at the beginning of the reforms, the scarcity of land was seen as an advantage for Armenia. It was also evident, that after the implementation of the

land reform that same scarcity of land would become the main impediment in the development of agriculture.

So, the main structural feature of Armenia's arable lands was that they were highly micro-contour: the 475,000 hectares of arable land stretched among 142,000 separate land plots.

The sharp increase in the share of live labor, replacement of mechanical labor with manual labor in order to reduce the cost of agricultural products which was dependent on the import of fuel, machinery and raw materials. The agriculture of Armenia was well equipped with machinery (according to Soviet standards). At the end of the 1990s it had 17,215 trucks (including tankers), 1,413 grain harvesters, 803 forage harvesters, 28 corn harvesters, 13,820 tractors, 5,597 ploughs, 2,307 seeding machines, 2,838 cultivators, 2,853 mowers, 860 hard mineral fertilizer dispensers, and 943 milking equipment and milking units. One tractor ploughed only 35,8 hectares of land. Still, there were no opportunities to use that machinery efficiently, as the soil structure in Armenia is unique and the agrarian sector consumed 50-120 thousand tons of fertilizers – 100% nutrients (with the physical weight of 160-400 thousand tons), 6.5 thousand tons of herbicides, 160-170 thousand tons of petrol, 150-155 thousand tons of diesel fuel, and 8-9 thousand tons of diesel oil.

If, for example, all the arable land was sown with grain, then, taking into account the average yield from 18 quintal, the fuel price alone for the production of 1 Dram (or one conventional currency) worth of produce would come to 1,252 Dram. If appropriate measures had not been taken after the proclamation of independence, and the agriculture of Armenia continued to function with the efficiency of the Soviet times, then a more than two-fold drop of production volumes would have been recorded in the first year of independence. Thus, **it became evident that at the initial stage, the replacement of mechanical work with manual work was the only economic reserve for the reduction of the cost of agricultural production**. If it were not for the speedy agricultural reform, Armenia would have to sharply increase the import of food, and put up with the reality that most part of the land (at least 40% of the non-irrigated land) would simply not be cultivated.

Consequently, due to privatization, a sharp increase was recorded in the share of manual work and the rate of employment in the village.

Experience proved that the above strategic approach was fully justified. Accordingly, at the end of the 1980s employment in the agriculture of the Armenian SSR totaled 275.000 people. In 1990, as a result of privatization, that number started to grow. In general, the increase of employed people in this sector came to 300,000, reaching a total of 567,800.

Absence of the national tradition of land privatization running through the ages, the failed attempt to organize private agricultural farms in 1921-1926, the hefty inheritance of extremely fragmented land. Private land ownership in Armenia ceased to exist starting from the 5th Century, though it was restored for a short period of time in Cilician Armenia. The invaders well understood that over time, the existence of private land ownership would bring forth demands for independence and statehood.

During the implementation of the land reform, it became evident how substantiated these peculiarities were. The number of peasant farms grew steadily (from 164,500 in 1991 to 319,300 in 1997 and 332,600 in 2001). At the same time, the average size of the land plot of one farm (peasant or collective peasant economy) was quite small – 1,960 hectares in 1991. In early 1997 the figure was 1,410 hectares, while in 2001 it was 1,380 hectares.

The pronounced economic individualism of the Armenian peasants. We believe that this feature is characteristic to those peoples who have lost their political independence for a long period of time and have survived under the hegemony of foreign rulers. Economic individualism, which, sometimes, is considered improper and not positive from the point of view of the requirements for the development of the society, for centuries has been looked at as the only option of public behavior and survival. In such conditions corporative and cooperative capitals could not be justified, because in that case, the safety of an individual (as an economic entity) would diminish. An illustrative example of what has been said is the evolution of peasant collective farms during the land privatization in Armenia.

So, no collective or state farm was maintained in Armenia. According to the Law passed on January 22, 1991 “On peasant and collective peasant farms” peasants (former collective farm employees) themselves were to choose whether to maintain or dissolve the collective farms. All 285 collective farms, actually, were completely dissolved. At no general

meeting of collective farmers concerning the decision of maintaining the collective farm, was the required 2/3 of votes secured. According to Article 1 of the Law all state farms were dissolved. They acquired the status of state agricultural enterprises and could be maintained, provided the state farm employees or a part of them renounced their land ownership, producing a written agreement of all the adult family members. However, as stated already, no decision to maintain them exists. Consequently, 560 state farms and inter-economic enterprises were completely or partly dissolved.

Lack of the culture and traditions of corporate and collaborative thinking. A most characteristic manifestation of this principle is the fact that Armenian peasants displayed a rather reserved approach to the issue of establishing collective peasant farms.

At the very start of the process of the land reform half of the peasantry made a decision in favour of setting up individual peasant farms.

Peasants preferred to implement their right to establish individual economies. In early 1997 the role of collective peasant farms was insignificantly small – all-in-all there were 273 farms with usable parcels covering a territory of 17,900 hectares. As of January 1, 2001, there were only 10 collective peasant farms, while the number of individual peasant farms reached 332,600. The following examples are typical: at the beginning of the Land Reform the Council of Ministers was extremely cautious on the issue of privatizing the agricultural machinery, granting artificial privileges to collective peasant farms. But this discretion, as it turned out later, not only delayed the reform for to two-three years, impaired its efficiency, but was also contrary to the public demand. A clear proof of the above is the fact that an immediate resale of tractors, cars, combines, plows, sowing and mowing machines to peasant farms got underway.

The need to set a certain price range for the sale of private property for land (privatized), livestock and agricultural property which is completely acceptable to the peasants. The analysis of the historical experience of converting property belonging to the state, the church or large (equivalent to state) land proprietorships into private property shows that, when choosing a special model of privatization (or some other form of conversion), two basic (polarized) options should be taken into consideration: full payment or distribution of land (and other entities) ownership.

Taking into account the above mentioned, in 1991, in Armenia a special, fully acceptable model of determining prices and payments of the private property for sale – the (privatized) land, the livestock and agricultural property, was chosen. The essence of "the fully acceptable" prices and payments was in the implication of the "partial compensation" model, grounded in the difference between the net income and income tax set according to the cadastral assessment. The partial compensation of grassland was the same, with the exception of collective land ownership, in which case certain privileges were provided. For the first-class grassland it was 50% partial compensation of the cadastral assessment, for the second class it was 30%, while for the third or fourth-class grassland the partial compensation was only 10%. Grasslands of the fifth class were allocated free.

In the beginning a rather radical approach was adopted concerning the issue of the privatization (sale) of the livestock belonging to the dissolved collective and state farms. N176 Decree of the Council of Ministers from March 6, 1991, stipulated the main principles of livestock sales to the population, the set average price was only 10-15% less than the market price was. The reason for this was, first, many buyers were those who wanted to get livestock (especially cows). Second, according to Point 8 of the law enforcement procedure of the Law "On peasant and collective peasant farms", to prevent a decrease in animal numbers (especially of cows and the maternal section), certain prerogatives were preserved for those peasant and collective peasant farms, which had either privileges or best facilities in terms of forage provision. Third, the inflation forecasts, in the circumstances of total deficit of goods, for early 1991 were high. Fourth, people could not get rid of the uneasy feeling of the impending political collapse of the Soviet Union, therefore, the demand for livestock exceeded the supply. This is why the sale of livestock to peasants could have turned into a short-lived campaign of replenishing the food resources of the society. Therefore, the implication of that mechanism would lead to an abrupt drop in the numbers of livestock. The RA Council of Ministers had to set a limit of the minimum number of animals that peasants could acquire. In this way, certain elements of redistribution were introduced into the process of privatization. In particular, the following minimum numbers were decided: Five of the cattle (including two cows), 20 of sheep and goats, 15 of swine (including three mother pigs) and 300 of fowl (including 250 laying hens).

Defining tax holidays and privilege taxes in the early stages of the reform. In Line with Article 14 of the RA Law "On peasant and collective peasant farms" in 1991-1992 peasants did not pay taxes. In 1993 a 30% profit tax was introduced. At the same time privilege taxes were levied for remote and mountainous settlements. In the initial stages of the reform the possibility of paying taxes in kind played a positive role.

However, in 1994, when the income tax was to be implemented, they introduced the land tax. It turned out that the tax authorities of the Republic were absolutely unprepared for the application of the income tax to peasant and collective peasant farms at that time. Parallel to this, at the expense of liquidation of peasant collective farms, there was a sharp rise in the number of peasant farms. As a result of this, the introduction of the income tax was delayed. Starting from April 1993 the production of meat, weightless dairy products, flouring and bakery items were exempt from value added tax.

At the early stages of the reform the state, in general, had to put up with certain tax payment losses, though those were relative losses in the sense that the state actually saved significantly due to the cuts of subsidies.

The principle of the priority of the members of the rural community in the process of land privatization. Article 6 of the Law "On peasant and collective peasant farms" stipulated that to run a peasant economy, the parcels were first of all given for ownership to those citizens, who as of 20/12/1990 were permanent residents of the rural settlements. Based on the mentioned Law, if in the given settlement, because of this reason or that, a certain number of non-privatized land plots were left after the allocation of the parcels, then a successive line of citizens who were entitled to benefit from the land reform was set.

From the state reserve of lands which were neither used nor cultivated, and had been left out of agricultural usage, certain land plots were given, on preferential terms, to those RA citizens who had expressed a wish to engage in agricultural activities on the given lands. The agricultural parcels of the abandoned villages were, first of all, allocated to the former residents of those villages living in RA, or to refugees and to the disaster zone residents, who had expressed a wish to relocate and settle permanently there.

Thus, ensuring the principle of priority of the members of the rural communities provided an opportunity to

1. limit the demand for land,
2. win the sympathy of the villagers before the start of the huge land privatization program,
3. increase the level of responsibility and vigor of the villagers in respect of the privatization process,
4. provide a legislative opportunity to other citizens of the Republic of Armenia to compete for acquiring parcels,
5. reduce the risk of passing the land under the disposal of people not directly involved in agricultural activities.

The principle of priority was not implemented only in two cases: during the privatization of the lands allotted to agricultural enterprises (state farms and collective farms) of cities and regional centers and to public enterprises, institutions and organizations (backup farms, intra-economic cooperatives, etc.), in which case the legislation allegedly considered the members (employees) of those organizations as primary subjects. The legislation provided for certain land ownership privileges for those professionals who had five or more years of experience in agricultural production.

The problem of leased lands. As stated above, in the late '80s the oligarchy of the communist party hastily renamed the collective and state farms, agro firms, leased large land plots to the chairmen of the collective farms and directors of state farms, which narrowed the future framework of land privatization. In the period of intensive collapse of the USSR, in Armenia, as well as on the whole territory of the Soviet Union, the process of leasing the land to collective and state farm nomenclature, gathered a sharp momentum. Taking into account the scarcity of land, the decision of the authorities to declare all economic types of lands, including those under lease, were subject to privatization is understandable. In other words, the leased lands, too, among the rest, became objects of privatization.

During the process of privatization of the leased lands, the leaseholders, according to the decision of the Local Committee of Land Reform and Privatization, were given the right of pre-emption to the extent calculated for the given settlement, if they were permanent residents of that settlement, had made targeted agricultural capital investments, and had not violated the terms of the lease agreement.

Correlation of the size of the privatized parcels with the size of the rural families. The size of the distributed land was directly related to the

size of families. This requirement is so general that it can be incorporated into the universal ones. The sizes of the parcels were determined by the correlation of family (household) with members (people) in the following order:

- One section of land to the families of up to three members
- Two sections of land to the families consisting of four to six members
- Three sections of land to the families of seven and more members.

What is more, young families of three members, according to the decision of the Local Committee of Land Reform and Privatization, could be allocated two sections of land, in accordance with the estimated plot sizes for the given settlement.

Determining the exact location of the allotted parcels through a lottery. The exact location of parcels is an extremely serious question. Naturally, its importance is especially great in the places where micro-contour plots and their vertical position prevail. If, apart from that, there is an adopted decision about incomplete compensation (partial payment), and elements of redistribution inevitably creep up into the process of privatization, then, a lottery becomes practically irreplaceable.

As the Armenian Land Reform experience showed, a lottery turned out to be the only possible and practical form of initial (1991-1992) land privatization. The application of other methods of land privatization (any method of paid alienation of reserve lands in the period after the year 1993) was practically possible only in those cases when a competitive land pricing mechanism was established.

Establishing state control over the size of land plots at the initial stage of the Reform. This principle had a huge social-economic significance for Armenia in the conditions of land scarcity. Actually, when elements of land redistribution are present, then state demarcation of parcels and setting permissible norms are mandatory. To this end, at the initial stage of the Reform the RA Council of Ministers passed a Decree “On defining the permissible minimum and maximum sizes of the parcels allocated for peasant economy”. By that legal document, the minimum size of the land plot was considered the size of the household (land near the house). The decision about the maximum size of the land was left to the discretion of the Regional Committee of Land Reform and Privatization.

Lack of the problems associated with land inheritance, repatriated land owners and those deprived of their home. At this point two circumstances should be paid attention to. First, the historical peculiarity of Armenia is the fact that long before the Sovietization of the state, the institution of land privatization was not prevalent. Second, the last private landowners in Armenia existed back in the far early '20s of the 20th Century. This is why, on the eve of the reforms there was no problem of heirs of landowners in Armenia.

The right to sell, pass on as inheritance, and to mortgage. In the process of land privatization peasants became full owners of the land property. It is noteworthy that in the initial period it was impossible to avoid certain limitations imposed on the right of the peasants to ownership, management and use of their land. For example, after the acquisition of the right to ownership, in the span of three years it was forbidden to sell the land of the peasant or collective peasant farms. After the completion of the three-year period the peasant or collective peasant farms were allowed to dispose of the land only on condition that they had fully paid off the partial compensation price of their privatized plots.

Parallel to this, strict norms were determined on the ban of the possible use of the agricultural land for non-agricultural purposes, or the restructuring of vineyards, fruit orchards and perennial grassland into some other agricultural production. In particular, a five-year ban was imposed on such restructuring. At the same time, peasants were given complete freedom to sell their produce freely at the market.

As to the lack of the ban on land mortgage, the legitimacy of such an approach was confirmed in the very first year of the land reform: with difficulty and hiccups, in small volumes but systematically did the system of mortgaging peasant and collective peasant farms by commercial banks start to operate.

The need to transfer the lands on to the balance of rural (borough, urban and local) councils. The Law "On peasant and collective peasant farms" stipulated that "to enact the Land Reform, the Council of Ministers of the Republic of Armenia implements consolidation of parcels in all settlements, based on the principle that the lands traditionally belonging to those settlements should at most be included in the land parcels of afore-mentioned settlements, and, to the possible extent, lands should be allocated to those rural settlements which were artificially incorporated into cities or were reorganized into boroughs".

This approach was utterly important given the existing social-economic climate. The point is that, by transferring the lands from the balance of collective and state farms to the balance of rural councils, the authorities deprived the farmers of the chances to administratively affect the progress of the reform.

The pace and completeness of the reform, the presence of the necessary critical mass of changes. The cautious approach towards changes, the conservative mode of progression, the preference for an evolutionary development, and in case of taking radical decisions, the problem of functionality, when the implementation of the latter is, unfortunately, inevitable, because before they were too conservative, are characteristic features of ancient societies. If we add to the above-mentioned the role of absolute state (church) land ownership of the last century, the lag of the Armenian society on the issue of institutional changes in the economy, becomes evident.

In this respect, the following philosophy generated within the framework of the Armenian land reform is extremely important:

- radicality of changes in the legal norms,
- a short time space allocated to the changes, (The reforms were to be implemented in two years' time. The RA Council of Ministers was given only a month to bring the decades-old legislation into line with the Law. During the first year of the reform the Government had to pass around 70 Decrees and recommendations directly related to the reform),
- setting clear deadlines for the liquidation of state farms and dissolution of collective farms; mandatory adoption of the decision on (attitude towards) the new economic system; unprofitability of staying long in the old, pre-reform economic area, etc.

2. Organization of the work

We wrote the draft of the Law "On Land" back in 1989. I initiated it myself. Later M. Azaryan joined in. In May 1990 the victorious political force in the elections of the Supreme Council of the Armenian Soviet Socialist Republic – the Armenian National Movement, received two bills from the Council of Ministers – the "Land Code" and the law "On Peasant and Collective Peasant Farms". Having adopted those laws, the Supreme Council instructed the Government to finish the development

and implementation of all the necessary legislative acts by February 15, 1991. On January 22, 1991, with its Decree N43 the Government approved the composition and charters of the central, sectoral, regional and local committees. The Central Committee (CC) had 37 members and four deputies. During the reforms the Committee held 62 sessions.

The Committee performed the following main functions:

- development of legislative bases,
- settling organizational matters,
- coordination of the activities of sectoral, regional and local committees,
- resolution of disputed issues.

In the first year of the reforms the CC developed and submitted to the SC 1 and to the Council of Ministers 41 draft decrees. The proper approach was adopted. The CC had the right to cancel the decisions of the sectoral, regional and local committees on land and fixed assets of agriculture and agricultural property.

Nevertheless, in that hierarchy of committees, it was the local committees that played the most important role. It was them who made decisions on the privatization of around 400,000 hectares of arable land. Meanwhile, the CC defined the quantitative and qualitative indicators of privatization (parcels/land shares, payment amounts, norms of privatization of livestock and land, the arrangement of land plot placement, etc.).

In mid-March 1991, the arable lands of the first two state farms in the villages of Yeraskh (Ararat region) and Vahan (Krasnoselsk region) were privatized. Several days later work was undertaken in nine more regions of RA. Already in April land privatization was in progress in all 37 regions of RA. Starting from June, the first certificates (acts) were granted to the landowners. The certificate bore the names of the owner of the land plot, as well as the names of his/her family members who were considered to be co-owners.

In the RA the main job of privatization of the agricultural parcels had been completed by autumn of 1993. Starting from February 20, 1994, the ban on selling the privatized land was lifted. From June 1995 on, the privatized lands could be put in pledge, and were subject to bankruptcy. Herewith, the legislative framework covering the privatized lands had been formed. The Constitution, which was adopted in 1995, fixed the right to land constitutionally.

Beginning from 1994 the regulation of legal issues on land registration became urgent. The World Bank gave a USD 10 million loan to RA. It allowed it to set up the cadastre of the privatized lands (referring to the placement and arrangement of lands), and institute a unified system. In 1999 a law on the registration of assets was passed. Certificates of ownership were replaced by the universal property ownership certificate.

Therefore from 1991 to 1993, owing to the policy of land reforms and privatization of the RA authorities, around 300,000 private peasant farms and private owners emerged in our country. Before that, in the history of Armenia, we come across peasant owners of private land in Cilician Armenia (not considering the privatization of land by Bolsheviks in the beginning of the 20th Century, which, unfortunately, lasted several years only).

3. Analysis of land reform implementation

The beginning of the implementation of the land reform was rather quick and efficient. First of all, the Local Committees of Privatization and Land Reform started the liquidation process of the old forms of economies – collective and state farms, as well as inter-economic enterprises (organizations). In the months from March to June liquidation committees were formed in almost all economies. To grasp the pace and volume of the work, it is enough to register, that as of 01/01/1991, in Armenia there were 860 collective and state farms and inter-economic enterprises, under the control of which were 697,600 hectares of agricultural parcels (excluding grasslands), 489,400 hectares of arable land, 74,200 perennial plants and 134,000 hectares of grassland.

As of 01/12/1991, that is – only 11 months later, 713 economies of old economic type out of the above-mentioned ones, were dissolved. In 1991 (actually in six to seven months) 164,542 peasant and 11,559 collective peasant farms were established, which were given the 49.4% of the 344,600 hectares of agricultural land or parcels (arable land, perennial plants, grassland). Moreover, arable land constituted 254,000 hectares (51.9%) of the stated area of the parcels, the perennial plants totalled 48,600 hectares (65.5%) and the grassland comprised 42,000 hectares (31.3%).

By 01/12/1991 the peasant and collective peasant farms had privatized 301,600 heads of cattle or 69.7% of the cattle registered by 01/01/1991,

which comes to 104,100 cows (or 73.0%), 43,100 pigs (or 25.5%), and 593,200 sheep and goats (or 84.9%) respectively.

As of 01/12/1991, the main agricultural funds of the state estimated by current value amounted to 3,384 million Rubles. At that point of time the agricultural machinery park had 12,508 tractors, 2,245 combines (including 1,413 grain harvesting, 803 fodder harvesting, and 28 corn harvesting combines), 11,464 vehicles, 2,335 sowing tractors, 4,865 ploughs, 2,838 cultivators, 2,835 mower tractors, 860 machines for distributing hard mineral fertilizers, 943 milking equipment and milking units. According to the data registered in the annual reports of the collective and state farms, by 01/01/1989 the following was filed on the balance of the collective and state farms and inter-economic enterprises: there were 2,414 constructions/buildings (barns, piggeries and sheepfolds), 690 cattle housing, 796 aviaries, 1,210 silage trenches, 289 fodder processing plants, 760 fodder storages, 120 grass drying facilities, 890 shops, 510 kiosks, 380 garages, 920 storage houses and cellars, 430 greenhouses, and 98 workshops.

The pace and volume of the privatization of the fixed assets of collective and state farms and those of the old type economies, as compared to the land privatization, were less impressive, though surprisingly high. Hence, as of 01/12/1991, the privatized agricultural fixed assets were worth about 384m rubles (11.3%), including the main production funds, which comprised 356m rubles (out of 2,007 million rubles).

During the very first year of the land reform a real revolution was staged in the production structure in terms of property type (according to the category of economies). Thus, if in 1990 93% of all the sown territory belonged to agricultural enterprises (collective farms, state farms, inter-economic enterprises, etc. hitherto called “old type” economies) and only 7% accounted for individual auxiliary farms and peasant farms (hitherto the term “private sector” will be applicable for these entities), then according to the results of 1991, these numbers amounted to 30% and 70% respectively. By our estimates, considering the structure of crop production in 1990, it turns out that the share of the private sector in crop production in 1991 was 72-73%, against the 24-25% of 1990. In 1991 the results of denationalization of animal husbandry, too, were rather impressive, though less than in the area of crop production. The privatization of animal husbandry and aviculture was carried out at the very end of 1991 and, regarding its share in the

private sector, had little statistical impact on the production volumes. In 1991 the structure (balance) of the old type of economies still involved 69% of the cattle (including 58% of cows), 63% of swine, 62% of sheep and goats, and more than 70% of poultry. However, as noted already, more than 70% of the cattle had already been privatized, as well as 80% of sheep and goats, as well as around 25% of pigs (the privatization of poultry farms had not started yet). The pay for the privatized animals was due within several years, therefore the full registration and certification of peasant's rights to the acquired animals started in 1992. Nevertheless, progress was charted in the field of animal husbandry, as regards to the change of the type of ownership. In meat production the share of the private sector (peasant and collective peasant farms, and private auxiliary farms) had reached 53% (in 1990 it was 29%), among which beef and veal production was 59%, mutton and goat meat production was 78%, pork – 65% and chicken – 26%. During the same year of 1991 the private sector produced 72% of milk, 83% of wool and 36% of eggs. In total, according to our estimates, the share of the production of livestock products in 1991 was 61-62%. Taking into account the correlation between livestock and crop production in the gross agricultural output **in the area of the production of agricultural produce the total share of the private sector in 1991, to our estimation, was 67-67.5%.**

In 1992 the land reform and privatization of agriculture in Armenia was actively in progress. As of 1992, there were 236,300 peasant farms and 6,700 collective peasant farms (the numbers of the latter, as compared to 1991, was reduced by 4,800). It meant that a sharp increase of peasant farms was recorded.

These farms, as of late 1992, had privatized 408,800 hectares of parcels (58.4%), including 290,100 hectares of arable land (59.3%) and 66,700 hectares or 90.0% of perennial plants. The share of the sown lands in the private sector was 94% on average, of which 95% was under grain, 92% - under industrial crops, 99% - under potato, 99% - under vegetables, 97% - under vegetable crops and 91% - under fodder. In general, the share of the private sector in the production of crop products was 95 – 95.5%.

As of 01/12/1992, the peasant and collective peasant farms had privatized 343,400 heads of cattle (70.4% of the total number recorded at the beginning of privatization). At the end of 1992 the share of the private

sector of livestock and poultry was as follows: cattle – 88%, cows – 92%, pigs – 58%, sheep and goats – 91%, and poultry – 27%. In 1992 the private sector produced 97% of milk, 95% of wool, and 70% of eggs. As of 01/01/1993, the state agricultural enterprises had only 17,500 heads of cattle (including 6,300 cows), 40,100 pigs, 23,800 sheep and goats and 391,400 poultry. In total, the share of the private sector in the production of livestock products came up to 87-88%.

Hence, during the second year of the reform (1992) the share of the private sector in the gross agricultural output totaled 92-92.5%.

As of February 20, 1993, when, in line with the adopted law, the land reform and privatization work in the village was to have been completed, more than 92% of the agricultural products were produced by the private sector (peasant, collective peasant farms, and the newly created agricultural enterprises). However, the Government did not manage to fully implement the planned reforms. Therefore, the legislative body came up with a decision to extend the reforms, while the Government was allowed to make decisions in certain cases concerning the privatization of those agricultural enterprises, which were still public property. Apart from that, experience was quick to indicate that it was necessary to change the status of those economies, enterprises and organizations, which were not initially subject to privatization. One form or another, rural privatization went on until well into 1994. The privatization of the main funds and turnover funds of the still existing state agricultural enterprises was carried out at a fast pace. The only exception was poultry farms. In 1993 as the privatization of livestock significantly gathered pace, the large-scale privatization of poultry farms only just started. Parallel to this, not only did the reduction of livestock halt (with the exception of small cattle), but trends showing an increase in the number of cattle heads were evident. In 1995, on average, 97.5% of livestock and poultry belonged to the private sector. The latter produced 97-97.5% of the crop products and 98 – 98.5% of livestock products.

On the whole, in 1995 the peasant farms, collective peasant farms and private agricultural enterprises produced, on average, 98% of the agricultural products. So, as a matter of fact, the non-private form of agricultural institutions in Armenia was terminated. Starting from 1995 the manufacturers from the public type of ownership continued to have some small impact in the areas of industrial crops and meat produce, poultry and egg production. For example, in the late ‘90s only 100 large

state economies were left, which controlled around 2% of the agricultural parcels (with the exception of grasslands).

In 1995-96, when the “Great Privatization” project was launched in Armenia, according to which all of the manufacturing industry was privatized (including poultry farms and farms engaged in the cultivation of technical crops), the privatization of agricultural lands under state control was still under way. Furthermore, the legislative changes in the Land code, as well as the introduction of the new Code, paved the way for the privatization of non-agricultural parcels. In this way the denationalization of agricultural entities was transferred on to the level of general reforms for the transition to the market system of the economy.

The Armenian Land Reform had great resonance in the post-Soviet space and beyond, and became the business card of the state among the CIS countries and international financial organizations. Interest towards the Reform was so strong, that in the summer of 1995 one of the conventions of authorized representatives of the Intergovernmental Council (IGC) on the issues of the agricultural-industrial complex was held in Yerevan. In the resolution of the Council meeting it reads: “The experience of the Republic of Armenia in the full privatization of lands deserves special attention, which has created radically new forms of organization of the production – peasant farms and collective peasant farms, based on the previous production facilities (collective and state farms).” The IGC took into consideration the agricultural and land reforms implemented in Armenia, while elaborating measures towards the reform of the agricultural complex, and the arrangement of the joint publication of final normative and economic-statistical bulletins, enclosing them in the general statements of the CIS countries’ research on land reform and agricultural development issues.

At the opening session of the Intergovernmental Council in my welcome speech I mentioned with satisfaction: “It is noteworthy that the IGC session is being held in Armenia. I believe it is due to the fact that our country was the first among ex-Soviet republics to undertake the implementation of fundamental and radical agricultural reforms…”

The land reform of Armenia was highly appreciated by international organizations, scientists and statesmen. A WB document runs as follows: “The radical privatization of agricultural lands in 1991, as well as the abolition of the state economy lay the basis for the steady reconstruction of this sector of economy. The land reform, the significant reduction of

subsidies, the full liberalization of prices and the conditions for the free sale of agricultural lands provide a better launchpad for the restoration of agriculture in Armenia than in any other ex-Soviet republic."

* * *

The 1991-92 privatization of agricultural lands and the reforms would have been impossible without the active participation of the deputies of the Supreme Council (Chairman Levon Ter-Petrossian), the Chairman of the Council of Ministers, Chairman of the Central Committee of Land Reforms Vazgen Manukyan, First Deputy of the Council of Ministers, Minister of Economics, acting Chairman of the Council of Ministers, Deputy Chairman of the Central Committee of Land Reforms Hrant Bagratyan, Chairman of the Subcommittee of Reforms, Deputy Chairman of the Supreme Council Gagik Harutyunuan, Heads of other Subcommittees His Grace Housik Lazaryan, Michael Grigoryan, Secretary of the Committee Misak Azaryan, Araksya Margaryan and others. WB specialist Vahram Nersisyants provided great help with his advice during that period.

THE REFORMS IN CIVIL ENERGETICS AND CIVIL AVIATION IN THE RA IN 1993-1996

The introduction of a liberal economic system in the RA took place mainly throughout 1990-1995, and evolved in three stages: creation of the legal framework (1990-1992), preparation of the organizational infrastructure (1991-1993) and structural reforms (1992-1995). The separation of these three stages is, of course, relative.

We shall make a brief reference to the reforms in the fields of energetics and aviation of 1993-1996. It must be noted that those are among the best sectoral reforms implemented in the countries of Eastern Europe. Owing to these reforms, in 1995, Armenia was able to fully resolve the basic problem of the 24-hour power supply, to start the export of electricity (first to Georgia, then to Iran), secure economic growth (the first among the CIA countries), and increase the volume of air transportation, in terms of both air passenger and freight turnover.

Electricity and energetic sector reforms

The state of affairs. From 1990 to 1991 all the Union Republics passed resolutions declaring independence and sovereignty one after the other. In December 1991 the Soviet Union ceased to exist. All the common political and economic systems collapsed at once. In addition, the common energy system collapsed with them. These changes had a direct negative impact on the energy system of the RA. As it happened, the events of 1991 were preceded by the Spitak earthquake of 1988. The RA had lost a third of its GDP, and in February 1989 the USSR closed the Armenian Nuclear Power Plant in response to an appeal by the communists of Armenia. In 1989, the Republic of Armenia received a significant redistribution of electricity from the unified energy system of the Union. But starting from 1990, the supply of energy from the Union system was terminated. The country faced a deficit.

Despite the fact that from 1990 on, the industry had sharply reduced electricity consumption from six billion kWh to one billion kWh, because of the economic downturn (In 1993, as compared to 1990, the GDP decline in Armenia was more than 50%), still, the demand for power for

the population, agriculture (the irrigation pump stations in particular), and infrastructure (metro, railway, water supply), along with those sectors of industry which were still functioning, was estimated at around nine billion kWh. Before, in the days of the USSR, the Armenian Soviet Socialist Republic generated 15 billion kWh of electricity, three billion of which was exported. The energy capacity of the country amounted to 3,500 Megawatts (MW).[1] Meanwhile, without the nuclear power plant, the hydroelectric power plants and thermal power plants could together generate six billion kWh only. The deficit totalled 4.5 billion kWh. Hence, before independence and after the electro-energetic system of the RA underwent radical changes both in its production and consumption structures.

1. The ANPP (Armenian Nuclear Power Plant) was removed from the electricity consumption structure. The capacity of the two power units of the ANPP was accountable for 25% of the total RA energy capacity - 800MW. After the establishment of independence, the electricity flow from the former-USSR was terminated. The removal of the ANPP from the energy system of the RA not only caused the outage of effective capacities, but the fact that the shutdown of the two reactors, which were a stable power source unaffected by seasonal demand and with no direct dependency on gas and fuel oil supplies, created a situation of unequal energy generation and distribution per month. Although the consumption was relatively stable, the generation of electricity was extremely volatile throughout the year.
2. After independence, the possibilities of central heating were almost nullified. The fact of the matter is that the Soviet central heating system was subsidized at the expense of cheap gas and energy sources. Whereas, in terms of international prices of imported energy carriers, it was necessary to create an individual consumer registration system of thermal energy consumption.
3. The population had to heat their apartments and accommodations with electricity. The latter was not sufficient. This led to a fall in frequency. A one-unit fall of frequency resulted in two points of power loss (the effect of power adjustment). As a result, the losses in the electro-energetic system doubled, going from 17% to 34%.

[1] Народное хозяйство Армянской ССР в 1984 году. Ереван, Изд-во «Айастан», 1985, с.89.

4. The problem of the irrigation of agricultural lands, of drinking water, and of metro drainage was serious. In the days of the USSR, due to cheap electricity, all these works were carried out with pumps and pumping stations. However, in an independent country with an emerging market economy, it was impossible to carry on with the same practice.
5. The RA energy system was being destabilized, as the gas pipelines and railway to the Republic of Armenia through the territory of Georgia were blown up time and again because of the war in Artsakh (in the period of 1991-1994 the gas pipeline was blown up 44 times, while the railway was damaged 12 times).
6. In 1991, the deficit of electricity led to successive power outages. The State had to set limitations to the power supply. In 1992, the population was provided with electricity for only four hours a day. In that short span of time everybody immediately switched on all the electrical appliances, thus converting electricity into thermal energy, which was dramatically increasing the losses in the power network. The frequency in the networks was, as a rule, 47-48 hertz.
7. The Soviet power system was not designed to provide a separate 24-hour power supply to the vital consumers (hospitals, public administration bodies, catering enterprises, industries with continuous cycle production, air defense, etc.), nor to the civil defense.
8. The power system was a Soviet one, i.e. the producers and the power networks were not separated. Money was accumulated in the system called Hayenergo, where the producers and consumers both had the same accounts.
9. Hayenergo was a public administration body (technically, financially, and organizationally), as well as an economic unit, it was the executor, and, at the same time, the supervisor. In these conditions conflicts of interest brought about many unsolvable problems.

The solutions, the reform in energetics. Targeting to resolve the above-mentioned problems, in March 1993 the Government developed a program of radical reforms for the electro-energetic system, endorsing it by the Government Decree 3, and NA (previously - SC) Decree 1. These were the main legislative acts. We should set aside the RA Government

Decree N160 from April 7, 1993 on restarting the ANPP (the same issue was the subject of N114 Decree from March 2, 1995, on structural reforms in the energy system of the Republic of Armenia).

These decrees provided for the implementation of an ongoing (up to one year), medium-term (up to two years), and a long-term (up to three years) action plan, owing to which in three years the RA was able to solve the 24-hour power supply problem, managed to reduce the energy efficiency of the economy and increased the competitiveness of the Armenian power engineering in the world. It is to be noted that starting from March 1993 work was launched in all three directions.

Ongoing (up to one year) actions. Provision of autonomous power supply to life support services (hospitals, maternity hospitals, air defense, public administration, food production, industries with continuous cycle production, metro, aviation, electric transport, etc.).

Medium-term (up to two years) actions. First, we should note the organizational-structural reform of Hayenergo, which resulted in the dissolution of Hayenergo, when the enterprises dealing with electricity generation (HPPs, Thermal PPs, State Regional PPs, and later - the ANPP added), electricity transmission (HV-High Voltage lines), and electricity sell-out entered into direct commercial and economic relations. The abolition of the financial functions of Hayenergo sharply increased the responsibility of the system. In the months of January and February of 1994, one-and-a-half years before the final restart of the nuclear power plant, within only a week, all the “left - illegal” lines and transmissions disappeared. Then, it is necessary to refer to the installation of individual gas and drinking water meters. It was important to determine unsubsidized tariffs for electricity, gas and water, parallel with the financial compensation of the population. Armenia outperformed most of the former Soviet republics in terms of energy expenditure per unit of the GDP *(Table 1)*.

TABLE 1
GDP per unit of energy in 2008 [2]

N	Country	GDP per unit of energy in US dollars	Energy use (kg of oil equivalent per capita)
1	**2**	**3**	**4**
1	Switzerland	10.6	3482
2	GB (2009)	9.87	3195
3	Italy	9.6	2942
4	Turkey (2009)	8.74	1232
5	Germany (2009)	8.3	3894
6	Japan	8.1	3883
7	Latvia	7.9	1979
8	France	7.4	4041
9	Azerbaijan	5.3	1540
10	Georgia (2007)	6.6	694
11	Armenia	5.8	974
12	USA (2009)	5.9	7075
13	China	3.6	1598
14	RF	3.1	4734
15	Ukraine	2.3	2943
16	Turkmenistan	1.7	3730
17	Iran	3.7	2808
	The world	**6.9**	**1835**

As we can see, the lack of reforms has sharply reduced the efficiency of the economies of the RF, Ukraine, Turkmenistan and Iran, and increased the energy intensity. With such indicators, it is impossible to have a highly competitive economy in today's world. Among the medium-term projects, the construction of a new gas pipeline, parallel with the existing one in Georgia (which was often blown up by Azerbaijan) has to be mentioned. Starting from 1994 already, the explosions of the new pipeline became impossible, as it was located farther from the Georgian-Azerbaijani border. In the medium-term period the Government's policy on financial structures turned out to be effective, the ban on barter payments in particular. In October 1994 the share of cash payments in the energy system of the RA amounted to 85%. In the same period of time cash

[2] *http://data.worldbank.org/topic/energy-and-mining.*

payments in the Russian Federation and Ukraine equalled 15%, while in the rest of cases, payments were made through barters.

Long-term (up to three years) actions. From among this group of undertakings, it is worth noting the restart of the second unit of the ANPP, the adoption of the small HPPs development plan, and the construction of the fifth energy block of the Hrazdan Regional Thermal Power Plant. The physical launch of the second unit of the ANPP occurred in June 1995, while its exploitation started on November 5, 1995. Thus, it became the first case in the world, where a decommissioned reactor was restarted. An incorrect opinion about the fact that Armenia overcame the energy crisis of 1990-93 mainly due to the restart of the nuclear power plant is widespread. Actually, after the restart of the ANPP, the production of electricity did not increase. The data in Table 8 is evidence for this. Throughout 1993-1999 the average annual energy production volumes were around 6 billion kWh. However, during this period, the share of HPPs from 68% went down to 23-25%. It allowed authorities to reduce the water intake from Lake Sevan sixfold (from 1.5 billion cubic meters to 250 million cubic meters). The share of the thermal PPs decreased from 60% to 40%. The impact of ANPP on the energy system was not a quantitative but a qualitative factor. It stabilized the system and brought to the minimum the average daily generation volumes. This is what the Government had strived for. The index of power regulation came close to one. And that meant a 24-hour electricity supply.

Another important issue within the framework of the long-term projects was the Agreement signed by the RA Prime Minister H. Bagratyan and First Vice President of Iran Habibi in May 1995 in Tehran, on the construction of a gas pipeline and high voltage transmission lines between RA and IR. Having in view the restart of the second unit of ANPP and the fifth block of Hrazdan Regional Thermal Power Plant, the Government of Armenia was well aware that soon it would not only solve the problem of the 24-hour power supply to the population, but would also have a surplus of the generated energy, and was looking for ways for the realization of that surplus. In early 1997 the high voltage transmission line linking RA and Iran was put into operation.

Thus, due to the reforms implemented during 1993-1996, the Government of Armenia managed to change the structures of power generation and consumption, solve the problem of the 24-hour power

supply to the population, government bodies and businesses, to sharply increase the efficiency of energy consumption in the national economy and among the population, and come up with permanent solutions to the energy problems. Those solutions still work to this day. It is noteworthy that, owing to the reform, the quality of the power supply has improved substantially: it finally became possible to secure a stable 50 hertz frequency in the networks.

It should be specified that the Armenian energy reform received an overwhelming response at international level. It was a topic of discussion both in the World Bank and in the International Monetary Fund.

TABLE 2

The volumes and structures of power generation in the RA 1993-1999 in billion kWh

Indicator	1993	1994	1995	1996	1997	1998	1999
1	2	3	4	5	6	7	8
Total, including	6296	5673	5573	6215	6021	6190	5716
ANPP	-	-	304	2324	1600	1589	2078
%	-	-	5.5	37.4	26.6	25.7	36.4
Thermal PPs	2002	2144	3338	2318	3032	3064	2438
%	31.8	37.8	59.9	37.3	50.4	49.4	42.6
HPPs	4294	3529	1931	1573	1389	1537	1199
%	68.2	62.2	34.6	25.3	23.1	24.8	21.0

Aviation reforms

The state of affairs. From 1990-1992 an extreme situation was created in the field of aviation.

1. Armenia's independence entailed a transition to international prices of jet fuel. This led to an increase in ticket prices (in the case of air transportation, the jet fuel price makes up 70% of the cost). This increase, in its turn, hit the passenger traffic hard. Domestic flights became unprofitable.

2. The Soviet built aircraft and helicopters (ILs and TUs), which the RA' inherited from the USSR, consumed 30% more fuel and were not competitive. Besides, in terms of flight safety, the Soviet aircraft were a class inferior to Airbus and Boeing.
3. The General Department of Civil Aviation, like Hayenergo, was both a public administration body (technically, financially, organizationally), and an economic unit, the executor and the supervisor in one. Conflicts of interest created ugly situations here. For example, flight tickets were sold by airlines, the airport, and "independent" agencies in parallel. In 1991-1992 it was often the case when more than one ticket was sold for the same seat. As a result, people often had to fly standing in the aisle. The airport mafia had become omnipotent.

The reforms: In 1993 the Government issued two important Decrees: N89 from March 9 (on improving the management structure of the civil aviation), and N125 from March 26 (on measures to settle the emergency situation at Zvartnots Airport). In 1993-1994, based on those Decrees, Government took the following steps:

1. The Department of Civil Aviation was restructured into a budgetary body of the State Administration of Aviation under the Government of the Republic of Armenia. The following units were removed from its balance sheet: the airports, airlines, the motel, health and hotel complexes, the aviation fuel supplying enterprise, the fuel warehouse, and the aircraft navigation enterprise.
2. The airports, airlines and jet fuel supplying units were restructured into independent economic entities, and other companies, which provided jet fuel, were allowed to work with airlines independently.
3. An Aviation Security Service was established at the airport.
4. The State, as the founder of the airline "Armenian Airlines" conducted the attestation of employees, which aimed to involve pilots who had flight experience of modern overseas aircraft, to offer work to highly skilled technical staff and flight attendants.
5. Armenia became a member of almost all international aviation authorities.
6. Negotiations were under way to lease new, modern aircraft (Airbus), and Armenian pilots were commissioned to technical training courses.

The results were not long in coming. From 1993-1994 the situation started to improve quickly. Data Table 9 indicates that for 1993-1995, as compared to 1992, a sharp increase was recorded in cargo transportation, while the rate of decline in passenger transportation had slowed down. In 1993, “Zvartnots” airport and “Armenian Airlines” became important taxpayers. In those years the Armenian aviation market, in terms of both cargo and passenger transportation volumes, exceeded the Georgian one by 2.5 times.

The peculiarity of the Armenian aviation reform was that among the former USSR republics, Armenia was one of the first to realize Aviation Reform from 1993-1994, which significantly improved its position in the region. However, starting from 1998, those reforms were not only discontinued, but were taken in exactly the opposite direction.

Inevitable structural changes lay ahead, especially the change of the form of ownership. And they were not solved in the best way. In 2001 the Government concluded a Concession Agreement with “Corporation America”, according to which the latter obtained the management of “Zvartnots” airport. It brought about, at least, two gross mistakes. First, the function of the jet fuel supplier to airlines was handed over to the airport. It was a breach of the main principle of the 1993-1994 reform. Second, the Public Services Regulatory Commission was not authorized to approve of the tariffs for the services provided by the airport. As a result, the airport concessionaire abruptly pushed up the prices on airport services between four and eight fold. Earlier, the Government of the RA had delivered another blow to aviation by the air tax. In a landlocked country with no access to sea (there are only 22 such countries in the world), the introduction of the air tax bears no serious explanation.

The unsuccessful concession agreement, the air tax and the wrong policy (in the sense of being imperfect) of Open Skies of 2013 made the Armenian airport unattractive to passengers. The Armenian “concession” monopoly could not fail to have its negative effects. As a consequence, the comparative analysis of service charges per 100 passengers in US dollars shows that in the Yerevan “Zvartnots” airport it amounted to 5,171. The figures for other cities were Vienna - 4,097, Baku - 3,995, Tbilisi - 2,806, Moscow DME - 2,287, Moscow SVO - 2,287, Kiev - 2,277, Warsaw - 1,808, Istanbul - 1,485, Riga - 402.[3]

[3] Christine Yedigaryan, Issues of globalizing the air transportation in the RA, Thesis, Yerevan, 2018, p. 85:

TABLE 3

The passenger and cargo turnover in the RA aviation field 1990-2018 [4]

Indicators	1990	1992	1993	1994	1995	1996	1998	1999	2005	2016	2018
1	2	3	4	5	6	7	8	9	10	11	12
Passenger turnover, per thousand persons	1840	1160	1520	1060	976	1010	900	630	1150	2105	2900
Cargo turnover, per thousand tons	49	21	59	34	51.4	28.2	18.9	13.5	9.3	18.3	18.1

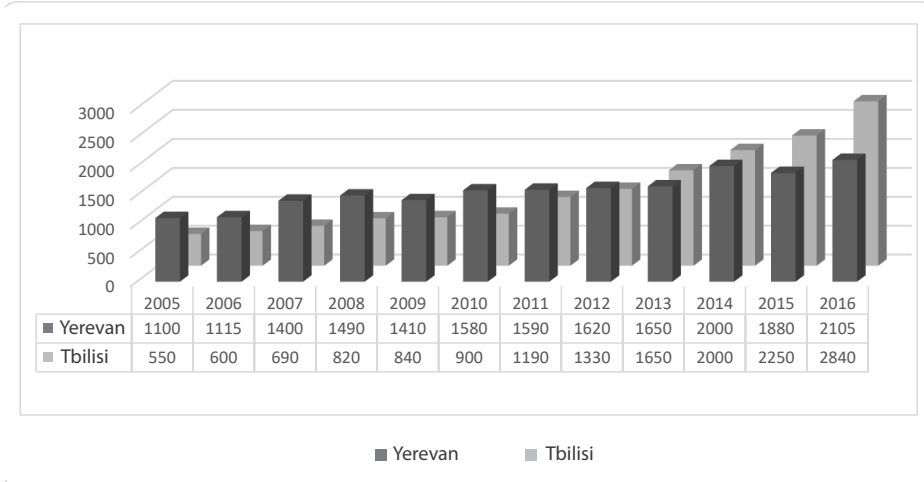


Chart 1. The passenger turnover of Yerevan (1) and Tbilisi (2) airports, per thousand people[5]

[4] Statistical yearbook of Armenia, 1990, Yerevan, 1991, pp 238-239; *www.aviation.am; https://www.armstat.am/file/doc/99507013.pdf; https://www.armstat.am/file/doc/486.pdf; https://www.armstat.am/file/doc/99452333.pdf*

[5] Ibid, p. 88.

In Georgia they adopted the Open Skies policy in 2005, at the same time taking precautions to protect the interests of the national carrier, securing the privileges to be applied on a mutual basis. Besides, there is no airport concession monopoly in Georgia, as is the case with "Zvartnots" (see Chart 1). The Armenian Open Skies policy implemented in 2013 was the direct opposite to the Georgian policy. Because of the incompetent work of the Government under T. Sargsyan, Armenia opened the country to foreign airlines. However, the partner airlines did not do the same for our resident airlines. In consequence, within a short period of time, the domestic airlines went bankrupt and were pushed out of the market. Thus, due to a more sensible policy, Georgia had great advantages over Armenia. And what does Georgia have? Seven to eight million tourists per year. While Armenia has three million tourists and a Diaspora of seven million. Still, as it is, the volumes of Georgian aviation 1.5 times exceed those of Armenia. During 2005-2016, in Georgia, the number of passengers using air transport quadrupled (the annual increase of 31.74%), with the initial 589,000 reaching 2,840,455. During the same period of time in the RA the initial 1,111,000 number increased to 2,105,000 (with the annual rise of 7.47%)[6] :

The next gross mistake of the authorities throughout 1998-2019 was the "discouragement" of domestic small aviation in the RA: the authorities still refuse to comply with relevant legislative regulations. This hinders the expansion of private investments in small aviation.

So, the Armenian Aviation Reform in the early '90s secured a leading position for domestic aviators. However, the changes implemented in the late '90s and at the beginning of this century, in no way corresponded with the logic of the reforms.

[6] Ibid, p. 88:

REFORMS OF THE RIGHT TO PUBLIC PROPERTY AND THEIR PECULIARITIES IN THE REPUBLIC OF ARMENIA



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1. The establishment of the foundations of private property

In the Third Republic of Armenia the transition from the command or centralized economy to free market relations began in the early '90s and continues to this day. During the transition period (within the framework of this study only the 1990s are considered) one of the key directions of the implemented social-economic reforms was the formation of a mixed economy with the dominance of private property instead of the public ownership prevailing in the Republic. It was due to the accomplished reforms that, according to Article 11 (Economic Order) of the current Constitution (with amendments), which was adopted on December 6, 2015, through a referendum, the following is stipulated: "The basis of economic order in the Republic of Armenia shall be the social market economy, which shall be based on private ownership, freedom of economic activities and free economic competition, and through the state policy be aimed at general economic well-being and social justice."[1] Suffice it to note, that around 85% of the goods and services produced in Armenia at present is created by the private sector. A number of priorities built the foundation of the privatization concept in Armenia, which shaped the following logical order of the privatization process: land and agricultural produce (land privatization), sale of food products (privatization of retail outlets), food processing (food and light industry enterprises), and, finally, privatization of large-scale industry. This order of market reforms in the RA was called "a principle of engines". This logic of privatization was not

[1] Constitution of the Republic of Armenia (with Amendments), the Amendments to the Constitution were made on December 26, 2015 through the RA referendum.

implemented, for example, in the Russian Federation or Ukraine, and it was one of the reasons why, in the post-privatization years, no decline was recorded in the privatized sectors of the RA economy. Whereas, economic downturn in the RA in 1991-1993 was registered only in non-privatized fields. Meanwhile, in agriculture in 1991-1993 an increase was filed, despite the fact of the registered slowdown in the non-privatized sector.

In Armenia the transition to free market relations from the all-embracing public property was executed by means of three nationwide programs: privatization of land and agricultural machinery, privatization of the housing stock, and privatization of the state property. Within the context of the full realization of the right to ownership, the last program, in particular, has played a key role. Furthermore, shareholding was chosen as the main form of privatization, whereby the majority of medium-sized and large-scale enterprises of the Republic were reorganized into joint-stock companies.[2] That approach was chosen to enable an almost complete return of the wealth that had been created through decades in the Republic to the people, and, following that path, to build "People's capitalism" in the RA. Within that period (until the year 2000) more than 1,400,000 proprietors emerged in the RA, of whom 235,000 were land and agricultural machinery owners, 480,000 – people who became owners as a result of the privatization of the house stock, 80,000 – owners of horticultural parcels, 2,000 - owners of art studios belonging to artists and other cultural workers, 100,000 - owners of "small" businesses and more than 530,000 - property owners due to the privatization of the medium-sized and large-scale enterprises. Besides, the privatization of agricultural lands and machinery, the same process for the housing stock was conducted almost free of charge (gratis), and to secure the participation of the whole population in the privatization programs of public property, each citizen was granted a certificate. It was believed that through the mechanism of shareholding, by creating a class of efficient proprietors, it would be possible to develop a stock market and an economy that has a market structure in the RA.

[2] For a more detailed information see A. Kh. Markosyan, "The Mechanism of Shareholding and Its Components (Advice to Future Shareholders)", Yerevan, "Hakob Meghapart" Publishing, 1995, 80pp., and A. Kh. Markosyan, "Management, Methodology, Strategy and Outcome of Denationalization of Public Enterprises", Yerevan, "Louys", 1997, 446pp.

It is noteworthy that, within the framework of privatization of medium-sized and large public enterprises through shareholding, a big army of shareholders was created in the Republic, which, however, did not have its logical development in the following years due to both objective and, even more, subjective reasons, because of which the capital market is still underdeveloped.

Therefore, the present attempts to develop a capital market in Armenia should learn from the past lessons in the sense that they might turn out to be useful while implementing reforms in that field.

It is worth mentioning that the process of transition to a market economy was a complicated and long one in the RA. It was accompanied with the establishment of a new type of economic relations (in the conditions of eliminating the old ones) or the adjustment of both the proprietors and those taking administrative decisions to the new conditions. To safeguard the vitality of such relations, first of all, it was necessary to define the right to property and its transition to the private owner by law and ensure the legal norms during such transfer.

It is possible to accomplish the state privatization (denationalization) programs within one to three years, but to fully apply the governance principles of the newly created joint-stock companies built on the base of medium-sized and large-scale enterprises takes much longer. This is due to the fact that companies are being created en-masse, which, in its turn, brings to the fore the issue of joint-stock property (corporate) governance, and mastering and ensuring management principles. The basic principles of this form of governance, published by the OECD back in 1999, are considered to be the international guidelines for corporate management. The principles were revised in 2003, in view of the developments that evolved after 1999. In 2004, the governments of the OECD member states agreed on the new principles which regulate the following six areas: a) provision of an effective corporate governance environment, b) shareholders' rights, c) equal treatment of shareholders, d) the role of beneficiaries in corporate governance, e) transparency and disclosure of information, and f) powers of the board of the joint-stock company.

It should also be stated that the principles of corporate governance rest on the following basic values:

- **Justice**: the corporate governance system should protect the rights of shareholders and ensure equal treatment of all shareholders, including the "small" and overseas shareholders. All shareholders

should have the opportunity to exercise their right to a remedy for their violated rights.

- **Responsibility**: the corporate governance system should acknowledge the rights of the beneficiaries stipulated by law, and encourage active collaboration of companies and beneficiaries for the sake of multiplying the society's welfare, creation of jobs and maintaining the stability of financially healthy companies.
- **Transparency**: the corporate governance system should ensure the timely and accurate disclosure of all vital data pertaining to the company, including the information about its financial status, business performance, the structure and management of its property.
- **Accountability**: the corporate governance system should be a strategic guide for the management of the company by its Board, for the efficient control over the performance of the executive body, and for securing the accountability of its Board to the shareholders.[3]

2. The peculiarities of privatization of state property in the RA

The most important line in the implementation of property reforms in the Republic of Armenia was the privatization of the former public enterprises and unfinished construction sites, which came after the first two stages of privatization (lands of agricultural value and the housing stock). It should be noted that out of the "privileges" preceding the "great" privatization, as regards the creation of the capital market, the most significant move was the partially gratuitous privatization of 1,010 large and medium-sized enterprises in the areas of industrial, agricultural and construction material production, as well as construction, transport, etc., to the members of their staff of employees. 20% of the shares of each company was given gratis to those members of staff, who had expressed a wish to become a shareholder, which resulted in the establishment of "mixed" joint-stock companies with an authorized capital of 20:80 proportion (20% - private, 80% - public). This measure targeted the following objectives:

[3] See also the RA Government Decision N1769-A from December 30, 2010 "On Approving the RA Corporate Governance Code".

- formation of share capital, involvement of the "minoritarian" shareholders in the governance of the company,
- creating a large mass of owners (shareholders); due to this, 230,000 employees of former public enterprises became shareholders,
- opportunity to attract investments "from within", by incorporating the resources of the new owners, which, in its turn, served as an impetus for enhancing the production efficiency, because in companies the investments were to be realized at the expense of the profits generated by their own activities,
- a full privatization of large and medium-sized enterprises in the context of actual (market) value creation of the shares.

Later, the second stage of privatization (starting from 1999) was characterized by an even larger involvement of strategic investors and by the opportunities to invest in privatized units. At the same time, great importance was attributed to retaining jobs in the privatized companies and the creation of new job opportunities, at the same time implementing certain social projects and undertakings. This process is mainly secured by the competitive sale of the share packages belonging to the State, when the buyer, apart from the trading terms, is obliged to meet other conditions (mainly of social nature) as well. It is worth noting, that within the time space of 1998-2003 the lion's share of foreign investments belonged to those companies which were privatized through a competitive method, and the investors, in line with the terms of sale, were obliged to provide in the post-privatization years (as a rule, two to five years after the privatization), investments equivalent to approximately USD 370 million.[4]

The success of privatization projects largely depends on the ability to learn the lessons of the previous years' experience, on the demonstration of political will to bring to life the adopted measures, and on the practical organizational commitments worked out and practiced by all stakeholders (both public administration bodies and private proprietors).

Due to the privatization of the public property a private sector developed in Armenia in almost every area of the economy. First, branches of trade, services provided to the population, and consumer services were privatized, which form the main bulk of "small" businesses. Most of the enterprises of light and food industries were privatized, and

[4] The amount of offered investments has been calculated for 1998-2000, 2001 and 2002, based on privatization program implementation reports. See the corresponding laws in the official website of the legal information system of Armenia: www.arlis.am

so were the businesses providing services to agriculture, which was, actually, the logical continuation of the privatization of the agricultural lands. Privatization was also largely implemented in the wood processing industry, production of construction materials and in the construction business, in mechanical engineering, in chemical, metallurgical, mining and transport industries, as well as in the communication, electricity, and hotel sectors. The production volumes of the above-mentioned branches are delivered by the privatized companies.

It is worth observing that the price of the public property being privatized is estimated as a difference between the amount of the company's total assets and the amount of its liabilities, which means that the buyer of the public property to-be-privatized pays not only the price of the acquired property, but also assumes the responsibility for paying all the liabilities of the company. In other words, the price of the privatized property is actually formed not only from its cost, but also those financial liabilities that the buyer should compensate for the state budget, pension fund, banks, suppliers, and other business entities. It is essential to take this fact into account, especially with regard to the period of "voucher" privatization (1995-1998): even if the buyers are able to pay the price of the enterprise with vouchers (privatization certificates), they will also have to pay in cash for the company's liabilities, e.g. taxes and duties, bank loans, service fees for water supply, electricity and other amenities.

That said, the privatization of public property is not a simple process of transferring the public property into the private hands, but is a tool for economic recovery, especially for maintaining and strengthening the financial ties between the existing economic entities within the state.

The findings of the research on the debts of medium-sized and large enterprises privatized during the period under review show that the debts can be classified into three large groups: debts to the state (mainly to the budget), to banks and to other enterprises (mostly to suppliers). Studies and calculations conducted for 274 denationalized enterprises from different sectors of the economy, carried out by sampling method, reveal that the initial statutory fund of that quantity of enterprises comprised 28.5 billion drams, while the liabilities payable amounted to 7.7 billion drams. It means that the price of the total assets of that bulk of denationalized enterprises was 36.2 billion drams, or, if we take that quantity as 100 points, then the share of liabilities would come to 21.2%. However, we should observe that this refers to the initial statutory funds

of the enterprises which are denationalized by free subscription of shares, the actual amount of which after the subscription is about 60% of the initial price. Second, this quantity may be acquired with certificates of denationalization, the market price of which at the end of 1996 was 2.5-3 times lower (before, it was even lower) from its starting price. That is to say, the initial statutory fund of the 274 enterprises estimated as 28.5 billion drams, would actually be worth 5.7-6.8 billion drams (28.5 x 0.6 : 2.5(3)) or, on average, – 6.25 billion drams. If we take into account that the liabilities of the enterprises were to be paid only in drams, then the 274 enterprises would in reality cost 13.95 billion drams (6.25 + 7.7), out of which 55.2% make the liabilities payable. At an average, for one enterprise these indicators will come to 50.9 million drams and 28.1 million drams. For different sectors of the economy these indicators are different. For example, the liabilities payable on average per enterprise for the surveyed 157 industrial enterprises were 37.8 million drams, while the statutory fund actually acquired was 31.8 million drams. Moreover, in the food industry the indicators were 23.4 million drams and 33.7 million drams respectively. In agriculture (31 enterprises have been surveyed) those indicators were 21.3 and 13.1, in the construction industry (30 enterprises have been surveyed) – 17.0 and 13.1. A greater part of liabilities had piled up in the enterprises before denationalization, and the new owners, being the legal successors of the former public enterprise or an enterprise with partial state ownership, had to repay the debts after its denationalization. The impression is that the State tries to maintain control over denationalized enterprises through liabilities and fines. For example, enterprises are obliged to pay 75% of the received profit to repay the state debts. The remaining 25% is not enough to pay even against the interest of short-term loans if such loans have been taken for production purposes. The Decision issued by the Government in October 1996 on the exemption from fines in case the debts have been paid by December 1, to some extent contributed to the promotion of the performance quality of the enterprises.[5]

The privatization of the property of state companies (enterprises) which were burdened with liabilities, in the Armenian reality had its “alternative”, when the bankruptcy of those companies (enterprises) was legalized through courts. In this way courts became specific points of “sale” of the

[5] See A. Kh. Markosyan, “The State and the Market”, Yerevan, “Tigran Mets” Publishing, 2000, pp. 195-196.

state property, due to which those who acquired public property, got that property tens of times cheaper than the market price was, and what is more, the liabilities of those companies (enterprises) to other business entities were "nullified", thus disrupting the reproductive cycle of the entire economy, with the worst negative consequences resulting from this.[6]

The privatization of public property often becomes a target for groundless criticism: focusing on the drawbacks, to the extent that nobody "recalls" the achievements. For example, considering it wrong to distribute privatization certificates to all the residents of the Republic, critics remain silent about the mass "insolvency" of the population at the beginning of privatization and about the need to gather a "critical mass" at the beginning of the economic reforms. Likewise, while criticizing the direct sale method widely applied in recent years, they forget about those investments and social guarantees that the new owners provide. When criticizing the high price of the privatized property, they do not mention the privilege of granting installment payments to the buyers of that property.

The criticism addressed to the reformers is not accidental, as the transformation of the command economy into market economy, accompanied by a change in ownership, affects the present generation as well as the next generations. First of all, we should remember that privatization is the result of political decisions and political will, and quite often a high price is to be paid for the possibility to implement such reforms, which the society does not agree to pay.

Apart from that, it is not realistic to anticipate instant "fabulous" results. That process lays the foundations of an efficient market economy. However, this should be matched with radical changes in other areas as well – the legal (especially the protection of the right to ownership), the tax and customs spheres, social policy, etc. The international experience shows that, starting from the point of privatization, efficient owners emerge only with the fourth generation after the privatization.

Joint ownership. As a special type of ownership, it makes sense to single out joint ownership, which creates great opportunities for certain (a small part, as a rule) participants to centralize the economic power. Joint ownership has the following peculiarities. First, as to its participants

[6] See the RA Government Decision from April 26, 2000 "On Rejection of Claims on Confiscation of Property of State-Owned Companies Included in the State Property Privatization Program of the Republic of Armenia for 1998-2000, Termination of Enforcement Proceedings, Regulation of Their Privatization, Liquidation or Bankruptcy", Decision N204, and the RA Decision from December 28, 2000, N899 to declare it invalid.

(owners), it is mixed individual and corporate ownership in one. Second, individual joint-stock companies generate a multiplicative result from the foreign real estate and asset ownership, and it is done on a voluntary basis.

The owners of the controlling stake decide the fate of the property of the participants of the company who do not own the controlling stake. Third, joint ownership creates a prerequisite for the transition form, and incorporates the features of both private and public ownership.

It has been noted, that in the Republic of Armenia the joint stock capital came into being mainly as a result of privatization of the public property, after which the problems of the development of the securities market and the implementation of the state incentive policy became more acute, while the main task of the State is to create conditions for enhancing the efficiency of joint-stock companies. In joint-stock companies the interests of both individual shareholders and separate groups of shareholders and managers, and the interests of those shareholders who seek to take control of the company into their hands are objectively present. Quite often the interests of these groups contradict each other. Such a contradiction practically leads to so-called "corporate conflicts". One of the most common corporate conflicts is the contradiction between small and large shareholders, which, first of all, depends on their interest level in the activities of the joint-stock company. Small shareholders seek to, first and foremost, distribute the company's profit in the form of dividends. Large shareholders strive to invest the gained profit into new investment programs, in order to get bigger profit in future. Another form of corporate conflicts is associated with such a situation, when the company has shareholders who have comparatively big packages of shares.

Two theories of control over joint-stock companies prevail in Armenia: control by the shareholders and by the managers. This is because, as a result of mass privatization of the public property, the former administration and employees of each enterprise had become the main shareholders of the companies. Moreover, the first group of the shareholders concentrated the absolute majority of the shares in their hands, while the second group owned only a meagre part of it. The point is, that the working staff of the companies do not stand out as united groups of people with common interests. The interests of the members of the second group, as a rule, differ, and they cannot participate in the management of the company

even to a small extent. Meanwhile, the interests of the administration are quite evident – to retain the control over the company, which they enjoyed before the privatization. In this created situation they succeeded. The concentration of power proceeds in several ways: by intentionally purchasing shares from the employees to bring their own package of securities to the size of the control package or more. If implementing that method turns out to be unrealistic, then other methods "come to help", among which - violations of corporate law. Namely:

- the shareholders of the company do not inform about the coming general meeting or the issues on the agenda, or make that information available either at improper time or in a wrong way,
- the board of directors is not elected during the general meeting, which is stipulated by law, but a "pocket" board of directors is formed, represented by the General Manager, Chief Accountant and several other heads of the joint-stock company. Outside investors, as a rule, are not included in the Board,
- the independent audit of the financial and economic activity of the joint-stock company is obstructed, or the audit is delegated to a "friendly" organization,
- during the General meeting the voting procedures are not observed, that is, instead of the principle "one share – one vote", voting is held by raising hands,
- purchase of shares from the minoritarian shareholders is made at unjustly reduced prices at the expense of the joint-stock company itself,
- the increase of the authorized capital through the issuance of new shares is mainly carried out by the distribution of the issued shares among figureheads, without the knowledge of the shareholders or without a closed subscription for shares,
- a sale of the joint-stock company's property at cheap prices is carried out, without the knowledge of the shareholders,
- the procedure of paying dividends is violated, or they are not paid at all,
- a compulsory purchase of their employees' shares is carried out under the threat of dismissal,
- a mutual agreement is reached between the manager-shareholders and employee-shareholders to act against external shareholders, or those employee-shareholders who attempt to sell their shares

to external investors are subjected to material and administrative punishment,

- fake bankruptcy proceedings are initiated to acquire the company's assets, etc.

Despite the adoption of the then-progressive law on the regulation of securities market[7], the Armenian mentality and pronounced individualism did not bring the aspired results in the field of corporate governance. Instead of providing open and accessible information about the joint stock company, fulfilling the requirements of the legislation and the regulatory body, large shareholders preferred to buy the shares of small (minoritarian) shareholders, and reorganize the open joint-stock companies into closed joint stock companies or companies with limited liability. Such a redistribution became possible, too, because in most companies created through privatization, the stock control packages were in the hands of a limited number of people.

In Armenia, establishing mixed corporate ownership with State involvement by means of privatization did not become common. Still, the role and the challenges of the state as a shareholder are important, and the problems arising in the field of corporate governance remain unresolved to this day, the main reasons for which are lack of corporate governance culture, lack of the operating infrastructure and control over efficient regulations necessary for the development of the capital market, lack of the structures (even if they existed, they were not applied) protecting the interests of small shareholders.

The continuity of economic reforms in the Republic of Armenia requires the development and implication of such a set of tools and mechanisms, which are characteristic for a market economy. In no country with a developed market economy has the State renounced its property, nor has it given up its regulatory leverages within the framework of the relations between the state and private economic entities.

No doubt, privatization has made it possible to shape a non-governmental sector, which now dominates both in the production and services areas. Nevertheless, state-owned commercial organizations as well as commercial organizations with state participation still exist. With almost no exception, the results of all surveys undertaken through

[7] The RA National Assembly passed the law "On the Regulation of the Securities Market" on July 6, 2000 (HO-82), and declared it invalid with the adoption of the RA Law "On the Stock Market" on October 11, 2007.

years have revealed numerous problems in the companies with state participation.

And if we take into account the fact that a part of the state property makes up the assets invested in joint-stock companies, then it becomes evident that the resolution of the problems of those companies has its significant impact on the execution of the economic functions of the State.

The role of the State as a shareholder is; boosting the management efficiency (profitability) of state-owned shares, increasing non-tax revenues of the budget[8], ensuring the performance of national functions by the joint stock companies with state participation, improving the indicators of financial and economic activities, and the quality of management, as well as optimizing management expenses.

In transitional economies promoting the performance of commercial enterprises is one of the topical issues. When companies are transformed and become competitive, then the creation of macroeconomic and political conditions that ensure free development of market forces is considered successful, and leads to the increase of the competitiveness of the economy. Meanwhile, in cases when the business performance of companies, their administrative structure and management mechanisms are not in harmony with the social-economic and institutional climate of the country, then the economic reforms can be regarded as effective or successful only for the solution of partial problems.

In Armenia, like in other ex-communist countries, where liberal reforms were implemented by means of the abolition of the social-economic institutions of the command economy, an institutional "gap" was left for a certain period of time. Former sectoral ties were severed. They developed an experience of granting privileges and certain "rights" to obtain extra-sectorial territorial advantages. The sectoral (especially industrial) science, which was considered the driving force behind the introduction of the scientific and technical progress results, was almost destroyed.

The equalization of the internal and external institutional environments of commercial organizations led to the cessation of the guaranteed and stable financial flows, and to the separation of the interests of different in-company groups (employees, managers, administration). There

[8] Revenue from the performance of state-owned companies and the revenue from state ownership, for example, in 2002 constituted 0.35% of the total state revenue.

emerged such a phenomenon, which can be called “an economy of individuals”.

It was mentioned above, that out of 1,147 joint stock companies (we mean only those which were privatized by free subscription of shares) which were created as a result of privatization, only an insignificant part had adopted, implemented and acted according to the international principles of corporate governance. This is evidenced by the declining trend in the number of open joint stock companies, starting from 2002, which continues to this day.[9]

Studying the dynamics of privatization of the open joint stock companies, we can see that the creation of share capital through free subscription of shares was carried out at a rather fast pace until 1999, when 1,085 formerly state-owned medium-sized and large enterprises were privatized by free subscription. Moreover, the rate of privatization of this type during the period of 1995-1998 was unprecedented. In 1995, 173 new companies were created, and in 1996 the number was 453, in 1997 - 319, while in 1998 140 new companies came into being. Starting from 1999, the pace of privatization through free subscription of shares slowed down: in 1999 there were only 24, in 2000 – 15, 2001 – 19, 2002 – three and 2003 – one public enterprise was privatized in this way, and in the coming years privatization through free subscription of shares was not implemented at all.

It can be assumed that the reduction of the number of companies privatized through free subscription of shares was due to the decrease in the number of companies assigned for privatization. But in reality, especially starting from 2000, many large and profitable enterprises were privatized not through shareholding but by the principle of providing fewer owners (more frequently - one person). Whereas, those were the very companies, which were to become objects of public offer, property of the general public through shareholding.

Thus, if before 2000, at the expense of privatized companies, every effort was put to create, multiply and bring into being one of the basic components of the stock market - stock market participants, later, because of the internal problems (noted above) of the companies and

[9] The data of the RA Statistical Committee come to prove it. E.g., not even one open joint stock company (OJSC) was registered in Armenia during the 2019 calendar year. In 2018 and 2017 one OJSC per year was registered. See the RA social-economic situation from January-December of the corresponding years, e.g., https://www.armstat.am/am/?nid=82&id=2236

due to the lack of the capital market regulation tools, the working style of joint-stock companies was equated with the working style of ordinary "family" organizations.

Thus, in most of the open joint stock companies, the shares were enlarged through repurchasing shares from "small" (minoritarian) shareholders by the large shareholders (hardly more than two at best) of the company. The same process took place with the mass of thousands of minoritarian shareholders who had emerged due to partial gratuitous privatization.

As to the commercial organizations, new problems were added to the external ones, connected with the issues of management quality, comprehensive development and program objectives. Short-term goals outweighed long-term development planning and, consequently, the reproductive process. The social and group tensions between the managers, employees and owners grew, so vividly expressed in the framework of economic monopoly.

However, systemic institutional problems are far more essential, because, if they remain unresolved, they could undermine the integrity of companies. By integrity of a company, we mean the mutual coordination and internal harmony of the production processes, product sales and reproduction of the used resources, as well as innovative investments in that field. The alternative to the stated integrity is the loss of the company's unity, failure to use the accumulated experience and a number of other negative consequences.

The weakening of the functional components of the integrity of the commercial enterprise is expressed, first of all, through the cutback in the investment volumes for innovations, and the reduction of the company's subsystems. The decline in integrity is also manifested in slackening the levels of internal consolidation and organization, and such functions as marketing, production preparation and personnel training are not systematized enough. Only a small number of companies develop unified programs that incurred additional current administrative expenses.

It should be noted that for the implementation of a certain program the responsibility of the company towards the representatives of the top management has an individual nature, and focuses around one person. The responsibility towards the shareholders has weakened because of flaws in corporate control. In many companies the external investors control more than half of the shares, and at that, the major part of the

shares is supervised by the director (board of directors). In this way, action mechanisms for “small” (minoritarian) shareholders against the executive bodies of the company are almost non-existent.

Among the critics of liberalization and privatization there are those, who argue that the reforms were implemented adhering to the following principle: “The best industrial policy is its absence”, and that policy has led to great losses. In this regard it should be stated that, first, liberalization and privatization of the economy in the 1990s (especially at the beginning of that period) had no other alternatives. Suffice it to note that when the first project of privatization of public enterprises was drawn up in 1993, it turned out that the number of employees busy in the fields of radio-electronics and electrical engineering was 452,000. And if we take into consideration the fact that the fields mentioned above were exclusively working “for Moscow”, then it remains unclear what should have been done when no markets and orders existed any longer, and the State was at war and in a financial collapse. Second, it was just in those years that privatization became the key tool of the industrial policy which was demonstrated mainly in the following ways:

a) former public enterprises were reorganized into joint stock companies (a more efficient form of governance, when the “red directors” were replaced with representative bodies of management - the general meeting of shareholders, company councils, etc.),
b) a partial gratuitous privatization of about 1,010 medium-sized and large enterprises was executed, and 20% of the book value of assets of these equity companies was granted to the members of the employee staff, thus creating 360,000 shareholders,
c) investment flows to companies were encouraged, and, as a consequence, proportionate to the investments, the share of private owners in the company’s authorized capital increased,
d) privatization became an effective means of engagement of foreign investors (if not the only), and it was during those years that, as a result of privatization deals, the major investments in Armenia were made.

Besides, the criticism would have been much fairer if the consequences of keeping former state assets in state ownership and the damages that would have been inflicted upon the Republic as a result of such practice were discussed.

It is worth noting that at the initial stage of privatization of the state property in the 1990s, the privatization deals were more transparent, fairer, more public, securing bigger volumes of investment and creating more jobs. After all, it is not only naïve to blame all the difficulties and failures of the country on privatization, but it is a matter of professional or economic short-sightedness to simplify the governance of the country focusing on one factor only, without having a clear and distinct idea about it.

The study of the results of the structural and institutional transformations applied in a number of countries (Republic of Armenia and its neighbors which are members of EEU) shows that Armenia occupies one of the leading positions among the mentioned countries with the implemented reforms.

In the Republic of Armenia, the process of privatization of the state property slowed down because of the changes in the political situation, and the circumstances that emerged in late 1990s, associated with non-transparency of transactions, selectivity of investors and participants, which had a negative impact on the social-economic development and productivity of the country.

BANKING SYSTEM REFORMS AND BANK DEVELOPMENT IN THE REPUBLIC OF ARMENIA

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1. Laying the foundations of the two-tier banking system

The foundations of the modern banking system of the Republic of Armenia (RA) were laid in the last years of the existence of the Union of Soviet Socialist Republics (USSR). Without going deep into the causes of the collapse of the USSR, it should be noted that in the 1980s, as it transpired, the closed socialist economic system had exhausted its reproductive capacity, particularly with regard to its ability to adapt to the developments of the world economy, or to respond adequately to the current development tendencies; and was surviving, mainly, due to the export of raw materials. For this reason, the political leadership that came to power in the second half of the '80s to save the empire from disastrous collapse introduced a number of transformations, mainly aimed at boosting the economy. In the second half of the '80s, measures were taken to increase economic efficiency, promote liberalization and entrepreneurship, and increase the level of independence of the enterprises. At the beginning of the transformations, certain shifts took place in the banking system. A great number of entities all over the USSR made use of the opportunities provided by the adopted law on cooperation. A great number of non-state banks were instituted in the USSR, as well as in Armenia. The two-tier banking system became a reality, and the state

monopoly was abolished. This stage of reorganization of the economy and the banking system, in particular, was noted for its inconsistency and low efficiency of the implemented reforms. This coincided with the profound national-political, economic, and socio-cultural developments throughout the USSR, which eventually contributed to the fall of the Soviet empire. The developments were firstly triggered by the protest activities over environmental issues in the autumn of 1987 and the Karabagh movement in February 1988. Despite the obstacles and persecutions instigated by the communist authorities along with the Karabagh issue, the movement put forward a demand for the guarantee of democratic freedoms, economic independence and then - political sovereignty. Back in 1988 the movement became more disciplined and issued its program provisions. In the first program adopted in the constituent congress of the Armenian National Movement in November 1989, priority was given to the issues of economic policy. Along with the core issue to independently define the forms of economic activities, the program set a goal to ensure the economic independence of the Republic through economic estimation and self-financing.

Political events, mainly aimed at a rapid dissolution of the USSR, were evolving following a certain logic; however, the USSR unified center seemed unwilling to pay attention to it. On and off, it was trying to prevent the developments by distracting or implementing random violent actions. As for economic transformations, the center was trying to accelerate them while ignoring the reality. This mainly referred to transformations in the banking system, which in terms of their internal logic, became systematic at the end of 1990s, when the Supreme Soviet of the USSR adopted quite progressive laws on the Central Bank, banks and banking activities. According to the above-stated laws, a two-tier banking system was formed, the first level of which was represented by the central banks of the USSR, and the second level - by commercial banks. The Central Bank was given some independence by law, in terms of monetary policy, regulation and control of banking activities, etc. The law defined the terms of licensing for commercial banks, the first set of economic norms, as well as introduced a norm for mandatory reserves. However, in our country things evolved in a unique way. The reforms, viewed as advanced, as far as content is concerned, were only partially implemented in Armenia. The reason was that a number of republics within the USSR, including Armenia, started to openly search for legal and political ways to gain

independence, and were unwilling to accept the existence of the USSR's unified center, which was losing its leverage.

The Armenian National Movement (ANM) did not receive a majority of the votes in the elections of the Supreme Council of the Armenian Soviet Socialist Republic (ASSR) held in Armenia from May-June, 1990. However, due to public support, it undertook the responsibility of restoring the independent national statehood in the existing critical political situation. According to the Declaration of Independence of Armenia adopted by the Supreme Council of the ASSR on August 23, 1990, the beginning of the foundation of an independent state was announced. Among the most important political and strategic issues and freedoms, the Declaration stated: "Only the Constitution and laws of the Republic of Armenia are valid in the territory of the Republic of Armenia." The Declaration played an important role both in the process of formation of Armenia's independence and the development and implementation of the country's economic policy. Thus, Clause 8 of the Declaration stipulates that "On the basis of the multiplicity of property the Republic of Armenia defines the order of its economic entities, establishes its national currency, national bank, financial system, and tax and customs services." The pursuit of independence was most evident in terms of development and implementation of economic programs and implementation of the relevant structural and legislative reforms.

This was revealed in a specific manner in the RA, which with the proclamation of the independence process, started to develop and implement its own economic policy and to draft a relevant legislation. The adoption of the RA law "On Property in the Republic of Armenia" (October 1990) was of key importance for the implementation of the economic reform program. The law aimed to create legal bases for the formation and development of market relations, establishment and development of property pluralism, and protection of property rights. Based on the adoption of a number of laws and programs, the Land Code of the Republic of Armenia and the law on peasant collective farms were accordingly adopted in January and February of 1991. The agrarian reform that started from the beginning of 1991 included privatization of the land, which was the first important step towards economic liberalization. This gave rise to a serious political upheaval in the USSR, which was still intact, and was one of the reasons for the deterioration of relations with the center.

The scope of USSR laws was gradually narrowed down and, eventually, those were abolished in the national republics. However, Russia, which was independence-oriented and was fighting for its rights in all spheres, had a significant influence on the political processes. In parallel with the adoption of the aforementioned banking laws, even a few days earlier, the Supreme Soviet of the Russian Federation passed relevant laws of the Russian Federation, according to which the above-stated initiative of the USSR legislature was rejected and the newly instituted Central Bank was declared the legal successor of the USSR State Bank. In fact, the Soviet-time laws on state banks, banks and banking activities were not legally applicable in Armenia.

In this legally chaotic situation, the Bank of Armenia had an uncertain status, the main powers were regulated by the USSR State Bank. For example, the licensing of banks in Armenia before August 1991 was implemented by the USSR State Bank as requested by an Armenian Bank.

The first legal norm on the RA Bank was adopted only in December 1991, following the Belovezha Accords on dissolution of the USSR, when the USSR State Bank was dissolved and, by the law of legal succession, its official powers were transferred to the Bank of Russia. In accordance with the decree of the RA President, the Armenian Republican Bank of the USSR State Bank was restructured into the Bank of the Republic of Armenia before the adoption of the law on the RA National Bank. The newly established bank was endowed with functions of implementing credit and monetary policy, banking activities, licensing and regulation of foreign currency transactions in the territory of RA. Thus, by the Decree of the Armenian President, the legal basis for the formation of an independent banking system of the newly independent Republic of Armenia was laid.

In fact, the above-specified stage of formation of the modern banking system in Armenia coincided with drastic political and economic transformations, which had an essential impact on all economic developments. After the adoption of the Declaration of Independence, Armenia, still being part of the USSR, started to develop an independent economic policy program in order to establish relations relevant to a market economy, to form a legislative framework, and to implement structural reforms. However, drastic changes in the political situation following the fall of the Soviet Union, the collapse of the traditional

economic system and the breakdown of economic relations resulted in a major economic decline. The problem in Armenia was aggravated by the Nagorno Karabagh conflict growing into a large-scale war, blockades, disruption of supplies, regular bombings of the gas pipeline and the railway line passing through Georgia, as well as the energy crisis. Neither the government, nor the dominant majority of businesses could withstand the resulting situation. The measures taken in the first stage of economic reforms, among them the abolition of the planned system, liberalization of prices and foreign trade significantly affected the quality of the domestic economy. However, the foreign policy and military situation significantly hindered the planned and regulated implementation of economic reforms.

Military needs and social problems of the population became priorities to be met. The State, which was getting rid of economic management functions, under the new military-political circumstances and in a state of full blockade, was forced to apply restrictions on consumption, namely, scheduling the electricity supply, obtaining bread and other food by vouchers, etc. New negative phenomena emerged in economics, including a sharp rise in prices and devaluation of the national currency. Payment and settlement relations were disrupted; the banking system had a significant decline. The scale of production fell at an unprecedented rate in 1992. Inflation, the growing level of unemployment, and deplorable social conditions created an atmosphere of despair among society. From 1988-1989, the economic decline which began in the Soviet era had reached unprecedented levels. From 1990-1993, GDP volumes decreased by 79.1%. The industry declined far more severely, the result of which was that a great many enterprises shut down and the socio-economic situation in the country changed drastically. Tendencies of decline typical of all the republics of the USSR had created a crisis situation in a number of spheres of the country's economy. Electricity production volumes in 1993 were reduced by about 2.5 times, when compared with that of the last Soviet years, and the export freight by rail was reduced by about 20 times. In the result of the disrupted economic relations, the industrial enterprises were forced to import the necessary raw material and export the finished products by road, which exceeded Soviet era prices by 20 times.

Tendencies of economic decline were also observed in the neighboring republics of Armenia, Georgia and Azerbaijan. Moreover, in the course of 1991-1996, the GDP decline in Georgia and

Azerbaijan was higher than that in Armenia. The structure of GDP underwent significant changes. In a short period of time, Armenia, a former industrial country, turned into an agrarian country (the share of agriculture increased drastically and reached 48.8% in 1993, while in 1990 it was only 16%; meanwhile the share of industry decreased). The economic decline had a significant impact on the social situation of the population triggering a large-scale emigration. Pessimism, despair and mistrust towards the future prevailed among the population. As a matter of fact, the structural reforms that commenced upon the proclamation of the processes of building the independent state of Armenia, while still within the unified economic system of the USSR and quite active at the beginning of 1992, lost dynamics and consistency in the existing military-political and socio-economic situations. This could be one of the reasons due to which the decline in GDP in 1992 alone was 52.6%.

The way out of the situation was the intensification of the structural reform processes, which started in early 1993. Although the economic downturn continued, the blockade intensified, and large-scale conflicts escalated on and off, the authorities resorted to systematic activities of structural reform, intensive development of market institutions and framework. Among the number of implemented structural reforms were the legislative reforms. In 1993 the tax and customs legislation was significantly developed; laws were adopted, among them on business activities, market institutions formation and activity regulation (securities circulation, currency regulation and control, stock exchanges, etc.), and privatization of housing stock. With the adoption of the RA Law “On Privatization and Denationalization of the State-Owned Enterprises and Unfinished Construction Sites” in March 1992, the large-scale privatization process started. The first stage comprised the partial gratuitous privatization of state-owned enterprises. Privatization of the housing stock had already had a qualitative impact on society. In addition to rural residents, most of the urban residents became private owners. In fact, the majority of people in society became owners. The overall picture of the economy, problems and objectives of the economic policy underwent qualitative changes.

Collaboration of the RA with international financial organizations was important in terms of advancement of the reforms. 1992 Armenia became a member of the International Monetary Fund, the World Bank Group and the European Bank; this provided, firstly, an opportunity to

receive technical assistance from these organizations on a regular basis, secondly, to have the professional conclusion of experts on the developed and implemented activities on reformation, legislative and structural revisions and subsequently, receive financial assistance.

2. Putting national currency into circulation

The situation developed in Armenia since the collapse of the Soviet Union could be described as political independence with some unified economic policies for certain spheres. In fact, the unified military-political system of the USSR had ceased to exist, and the newly developed independent states pursued an independent economic policy; however, the common zone of the former USSR ruble (RUB) continued to be maintained under the auspices of the Russian Federation's joint emission center. In these conditions, the principle of integrity of structural reforms was disrupted, and, for instance, the macroeconomic stability, which was to be central to the reforms, was pushed back.

The single ruble zone that lasted until the summer of 1993, and the policy pursued by the Russian Government and the Central Bank predetermined the monetary and, partially, the fiscal policies in Armenia. Structural reforms in the financial sector in Armenia were also connected to the measures taken in Russia, or at least were following them. The situation was more complicated in the fiscal sphere, also in the conditions of the newly formed tax field, insufficient attraction of budget revenues; this meant Armenia had to take care of the livelihood and military issues. The dire state of public funds, unpredictable inflation due to various external and internal factors, and the low level of fiscal and monetary policy programming significantly affected the efficiency of economic policy and structural reforms. The status of the RA Central Bank was uncertain, the so-called monetary policy was not developed and, at best, the bank provided monetary services to the government or was supplying the economy with cash banknotes. The CB powers in the areas of licensing, control and regulation of banking activities and the opportunities for their implementation were extremely inadequate and inefficient. The above-specified stage of banking activity can be described as a stage of extensive development. From 1991-1993, the number of licensed commercial banks in Armenia increased about five fold, although in the conditions of a high level of inflation, a decline in the volume of

indicators of the banking system activity was observed. The volume of non-cash financial flows began to decrease sharply; cash turnover in the economy increased, basic commodity exchange, barter trading and other phenomena, not typical of the market system, emerged. These, certainly, hampered the development of the banking system.

Until July 26, 1993, when the RA Central Bank first set the exchange rate against the US dollar independently, the RA, in fact, was unalterably applying the estimated exchange rate (settlement) of the Bank of Russia, which was being applied partially, and only for official transactions. However, the exchange rate in the market was about 20% different from the official exchange rate, and it contributed to the out-of-bank conversion and money circulation, increase of cash turnover. Due to Russia's unilateral withdrawal in the summer of 1993 from the common ruble zone, inflation in Armenia increased sharply and the devaluation of local currency rate accelerated. Thus, in the eight months from January 1, 1993 to July 26, 1993, the local currency devalued by about 2.4 times its value, then in the following four months (until November 22, 1993 when the national currency was put into circulation), it was deprecated by about 3.5 times its value. As of the end of September that year, the Russian ruble was quoted in Armenia (this, by the way, can be considered as an introduction of national currency). There was a sharp increase of volume of cash-in-circulation, also due to the Soviet ruble inflow secured from exchange with countries leaving the USSR united zone. While inflation and devaluation rates went up, there was an "escape" from the market of goods, disruption of regular economic ties, and, finally, a decline in the degree of governance over the financial system.

In the current situation - and in view of the fact that the law on the Central Bank adopted months ago was not yet in force - the Supreme Council formed a State Commission for Regulation of Money Circulation represented by the Supreme Council, the Government and the Central Bank, with one representative from each. The Commission was given the authority to regulate the money circulation, put the national currency into circulation, and regulate the activities of the banking system - authorities that the Central Bank was endowed with. At the end of October, it became clear that the Armenian-Russian agreement signed on September 16 of the same year to unite the monetary system of the RA with that of the Russian Federation on "Practical Measures to Create a New Type of Ruble Zone" would not work. By the decision signed on

October 25, 1993, it was established that the former USSR State Bank sample banknotes of 1961-1962, and that of the Russian Federation are temporarily considered the currency of the RA. In a short period of time, organizational measures were taken, relevant regulatory norms were adopted, and on November 22-26, the currency exchange was carried out, during which the banknotes in circulation in Armenia were replaced with the new Armenian Dram (AMD) at an exchange rate of 1 ruble to 200 drams.

With the national currency put into circulation, a fixed exchange rate of the dram against the US dollar was set, which at that time was 14.5 drams against 1 US dollar. Such quotation of the exchange rate was based on the average exchange rate formed in Armenia in November 1993 with all the possible consequences of the exchange taken into consideration. However, the results of the exchange deviated considerably from the expected figures. As early as July, when Russia withdrew from the common ruble zone, measures were taken to prevent the inflow of banknotes into the country; however, the volume of the former convertible rubles exceeded the official estimates by about 30%. In all the years preceding the exchange, about 93 billion former Soviet and Russian rubles were put into circulation in Armenia. Nonetheless, after summarizing the results of the exchange, it became apparent that 117.3 billion rubles had been exchanged, which was 24.3 billion rubles more than had been envisaged. The exchange process ended only in February 1994, when the 1 to 500-ruble banknotes, previously used as coins, were withdrawn from circulation.

The national currency – the Armenian Dram – has been the only legal means of payment in the territory of the RA and Nagorno Karabagh since November 27, 1993. As a matter of fact, Armenia restored its national currency, as one of the most important features of its independence having been deprived of the opportunity to have a national currency for centuries (the first Republic never managed to put the Armenian ruble into official circulation).

Introducing the national currency was crucial for the development and implementation of independent economic policy; it created new qualitative opportunities for increasing the level of coordination of economic reforms, in particular the reconstruction of the financial, and banking sectors. Shortly after the Armenian dram was introduced, the government and the CB abandoned the policy of steadily regulating the exchange rate

and introduced a policy of “managed floating” exchange rate, as a result of which the dram was devalued by five times during the first month following its introduction. The 1993 results – the continuing economic decline (about 14% during the year), upsurging inflation, budget deficit, large-scale lending of government expenditures and, hence, high levels of inflation rates, ongoing economic blockade, energy crisis, disrupted foreign trade relations, and an actual absence of foreign exchange reserves all led to the devaluation of the Armenian dram. Armenia, in fact, was one of the few countries, which did not have foreign exchange reserves when putting the national currency into circulation.

3. Banking system reforms

The introduction of the national currency, the progress of economic reforms and the stabilization of the economic situation made it necessary to implement reforms in the banking system. In 1994, the law “On the Central Bank of the RA” was put into force, the governing bodies of the CB were formed, which were to act within the framework of certain powers and responsibilities stipulated by the law. Reorganization of CB and formation of a relevant structure became a priority. One of the first steps taken was the dissolution of the CB staff and the recruitment of a new staff; often composed of inexperienced, but young people who were full of aspirations. Measures were taken to prevent hyperinflation and to keep the money supply manageable. Due to the lack of market tools, the CB was forced to resort to mostly administrative leverages. A minimum transaction rate of 360% per annum was set for commercial banks. This somewhat unusual action at first glance, turned out to be most efficient in establishing a positive interest rate in the market in the conditions of current relations and the state of the banking system. Measures were taken by the CB to regulate government lending, strengthen the credit market, and to make the money supply manageable in its broadest sense.

In compliance with the law in force, for the first time in the history of our country, a monetary policy program was developed. In addition to the most important economic and strategic goals (among them curbing the inflation, regulating the money supply and limiting the government lending) this program prioritized activities, such as banking reforms, establishment of an effective system of control and regulation of commercial banks by CB. Regulation of banking activities is of key importance in transition

economies, which lack banking activity experience and traditions; hence legal regulation of bank activities played an exceptional role in the formation and development of the banking system. Since the adoption and implementation of the first basic laws of banking legislation, the Central Bank of Armenia undertook the responsibility to develop and implement an adequate regulatory framework in line with international standards and aimed at banking activity regulation, while taking into account the economic realities in Armenia at that stage of reforms. The introduction of the national currency, the dram, into circulation, the adoption and application of laws on CB, banks and banking activities became the basis for the third stage of the banking system transformation, which played a crucial role in the development of the modern banking system of RA.

In the previous stages of the banking system; development that can be called a “free” stage in expectation of high profitability, meant banks were set up both by state bodies (by involving their subordinate enterprises) and individuals and enterprises representing the newly created private sector of the economy. Among the latter there were entities with non-transparent and unstable financial histories. The majority of the entities formed amid the conditions of poor regulation and control of banking activity, due to imperfect legislation, could only conditionally be named banks.

In conditions of negative economic trends and high-level inflation, the minimum requirements for establishment of a bank were essentially devalued. In particular, at the beginning of 1994, the minimum amount of the bank’s statutory fund was about USD 3000. Under the above-mentioned conditions, at the beginning of 1994, the number of branches of banks operating in Armenia and the foreign banks reached 64. In terms of the ratio of established banks per one million population (more than 20), Armenia exceeded developed European and other countries by a considerable margin; for instance, the ratios of interest were 1.2 in Japan, 4.1 in Germany, 5.5 in Italy, 8.5 in England, however it was quite close to Russia’s 17.6.

The next stage of the banking system reform or formation of the modern banking system that was based on the laws regulating these spheres was different from previous ones, as far as quality is concerned. Prerequisites formed due to the economic reforms of the previous period, activation of economic-structural reforms, introduction of the national currency along with the structural-organizational measures carried

out in the banking system, shaped qualitatively new conditions for the development of the banking system.

Formation of a two-tier banking system documented by the law during the mentioned period, legal guarantees of the CB's sovereignty, clarification of issues and functions, and the formation of the CB governing bodies, laid the foundation for the CB transformation. The adopted laws were considerably advanced and reflected developments in the specified sphere. In particular, Article 2 of the Law On the Central Bank stipulates the following issues:

- Provision of internal and external stability of the *dram*;
- Creation of monetary, credit and financial settings boosting the functioning of a well-balanced and stable economic system;
- Protection of interests of banks and other financial institutions, creditors and depositors by regulation and control established over the activities of banks and other financial institutions;
- Establishment of an interbank settlement system.

In compliance with Article 3 of the same law, the CB was empowered to perform the following functions aimed at implementation of the above-mentioned tasks:

- Implementation and regulation of issuing the dram in accordance with the law, organization of money circulation;
- Implementation of monetary policy;
- Organization of interbank settlements;
- Servicing the state debt of the Republic,
- Implementation of the monetary and credit policy of the Republic, management of the RA reserves of currencies, precious metals and stones;
- Licensing banking activities and foreign exchange operations in the territory of the Republic of Armenia,
- Supervision of the activities of banks, other financial and credit organizations, charitable, insurance, pension funds, investment and other similar companies and organizations operating in the territory of the Republic of Armenia;
- Organization of banking statistics;
- Organization of banking services of the RA Government and other state bodies;
- Defining the required reserves' norm;
- Implementation of open market policy.

Solutions to the problems stipulated by the law and the performance of the functions, certainly, required time. However, the enforcement of the law, reorganization of CB and clarification of its powers regulated the process of the banking system reforms. It is noteworthy that among the problems of the CB there are issues, the solution of which in due time would annul all previously taken measures and efforts. Restoration and development of the paralyzed payment and settlement system of the RA required special consideration.

Until 1991, the payment and settlement relations in Armenia were part of the payment and settlement relations of the Soviet Union. Under Soviet rule, payment and settlement relations were based on the requirements of the administrative-planned system and were characterized by their considerably high level of regulation. However, the collapse of the USSR, followed by a breakdown in the banking payment and settlement system triggered a number of problems, among them large non-payments of mutual settlements of enterprises and organizations, lack of legal framework regulating interbank settlements, and the technical inadequacy of the banking system. The situation deteriorated even further in 1992-1993, due to the energy crisis; when even telephone connections were out of operation, and the postal service was destroyed. As the implemented administrative measures were mainly sporadic and incomplete; businesses were forced to seek solutions on their own, which deepened the crisis.

A priority among the key tasks of the emerging banking system was the formation and development of a stable, reliable, efficient payment and settlement system, which was implemented in several stages. A priority, of course, was the revival of the demolished system within the powers of CB, the implementation of which, in terms of expenses and the outcome, was one of the most effective measures. A very simple and inexpensive solution was found in the CB at that time. A clearing system was introduced, which ensured the calculation of payments in the same city (carried out in the same region) through the clearing sessions organized at the CB. Actually, the introduced system enabled payments between different businesses in the same city within one to two days, which in fact meant a restoration of non-cash payments, as the payment discipline had fallen drastically under the disrupted system and poor administration. Further stages were steps directed towards the application of the internationally accepted payment and settlement

standards, and subsequently, the integration into the world financial communications system. Formation of a legal framework regulating the aforementioned relations was important (the RA law “On Funds Transfer by Payment Orders”, the clarification of cheque servicing procedures by banks). One of the most important and effective solutions was the establishment of the CBANet interbank computer network in 1996, and based on it, the design and introduction of the electronic payment system (BANKMAIL). The latter was a dedicated interbank communications system, which provided connection between all the operating banks and their branches in the territory of the RA. It also enabled instant transfer of communications and payment documents, and submission of the CB reports from its branches and head offices on a daily basis. In terms of developing an effective payment and settlement system, it was important to become a member of the Society for Worldwide Interbank Financial Communications (S.W.I.F.T.) network, due to which Armenia became part of the international payment and settlement system.

Measures taken within the economic reforms, the formation of the CB, steps towards regulation of money supply, as well as the ceasefire established in May 1994 resulted in a sharp decline of the inflation rate in the third quarter of the year up to 2.5% per month. Prices rose by about 18 times during the year, however an economic downturn was prevented; the actual economic growth made more than 3% and the food market was fully supplied. The economic reforms were marked by quite impressive economic results as early as the following year. Establishment of macroeconomic stability and the consistent implementation of structural reforms added up to an economic growth (in conditions of low inflation), and to progressive development of the financial sector, in particular - the banking system.

However, the crucial issue was to create a stable and reliable banking system and the solution had to be the regulation and control functions of the CB banking activity. The less reliable current banking system had reacted in a unique way to the high inflationary environment in the market. Due to legislative gaps and poor regulations, various financial institutions which had adapted to operating in the conditions of high inflation were acting as intermediaries. Establishment of macroeconomic stability and a drastic decline in inflation tendencies led to insolvency and default of these entities, which deepened distrust towards banks. The main way to increase the reliability of banks and the efficiency of their activities is the

regulation and control of the activities of commercial banks by the CB, the main way of which at that stage was the formation of a sub-legislative normative base of the CB. In May 1994, the Board of the RA Central Bank adopted the decision "On Economic Standards for Regulation of Banking Activities of the Armenian Banks and Defining Sanction in Case of Violations', which systemized and completed the economic standards of commercial banks, which were as follows:

- Minimum amount of the authorized capital;
- Marginal equity-to-asset ratio (N1);
- Indicators of liquidity balance (N2 and N3);
- The required amount of reserves placed in the Central Bank;
- Maximum level of risk per borrower (N4);
- Marginal ratio between funds attracted from the population and equity (N5).

In terms of content, this was a set of precautionary norms, a system of economic standards, a core element for regulation and control of banking activities. The effective use of the system was central to improving the banking system efficiency, preventing illegal activities of entities that had emerged in the system during the previous years and operating in non-compliance with current requirements. When setting the rates of the above-stated economic standards, as well as the requirement for minimum capital rate, the CB was guided by the following principles: on the one hand, not to disrupt the banking activities, on the other, over a period of time, to bring the duly planned economic regulatory norms closer to the international standards in a transparent manner.

Among the banking system reforms, the approval of the monetary and credit policy program by the Supreme Council of RA, in compliance with the current law, was central. Approval of the monetary and credit policy program by the legislature itself comprises an element of possible political dependence for the CB. However, in terms of developments at the time, this played a certain positive role both for the establishment of the CB and solution of the issues set by law, as well as the establishment of the banking system. This way, the aforementioned problems brought to the attention of the public and political forces, were prioritized and revised. Subsequently, the issue of the banking system development and recovery started to evolve into a program. Steps to be undertaken were developed, approved and publicized, and those in charge, as well as the resources to be involved defined. In terms of expansion of the

CB, effective implementation of the functions defined by law, provision of the first credit funds by the IMF was important, as this became a basis for the formation of the CB's international reserves, unhindered implementation of the RA international obligations and currency market stabilization.

In a broader sense, the core approach to the growth of the banking system was to establish in the short term the CB function for the regulation and control, which is in compliance with international standards and internationally acceptable. As early as 1995, the basic principles of the Basel Committee, the most authoritative international organization for banking regulation and supervisory practices, were put into circulation. Armenia made significant efforts towards it and in 1995 the regional subgroup of Transcaucasia and Central Asia was formed by the Basel Committee. It is noteworthy that the group included the three states of the South Caucasus - Azerbaijan, Armenia and Georgia, and the Central Asian countries - Turkmenistan, Kazakhstan, Kyrgyzstan and Uzbekistan. Due to the effective undertakings in the field of banking supervision and the accomplishments recorded by the international financial organizations, Armenia became the first presiding country of the aforementioned subgroup. It should be noted that later on Russia joined the group. Turkey also took part in the activities.

During the above-specified period the strategy of recovery and development of the banking system was elaborated and introduced. Recovery of the banking system is a complex and extensive process, which includes a comprehensive system of legal and administrative measures aimed at ensuring the reliability of the banking system and securing the guarantees of its efficient development. The Armenian banking system recovery program included a number of key areas, each requiring implementation of a range of multifaceted measures, such as:

- Legal regulation of banking activities;
- Eliminating the external negative pressures on the banking system;
- Restoring the place and role of banks in the economic system by increasing their reliability, transparency of activities and efficiency;
- Recovering former state commercial banks;
- Liquidation of insolvent and unviable banks;
- Increasing the reliability, transparency and publicity of banks' activities;

- Restoring the trust of the population and economic entities towards banks.

Among the key factors contributing to the recovery of the banking system was the recovery of the former state-owned commercial banks - the core of the banking system. At that point in time, they had a significant share in the system's equity capital, assets and liabilities. Under the pressure of state bodies and state-owned enterprises, which were the shareholders, and as a result of the allocation of low-reliability loans on inappropriate market terms, in 1995 all the aforementioned banks were facing bankruptcy, while writing off their low-quality assets. In the current critical situation, a special inter-departmental body for the recovery of banks was formed, which was responsible for the development and coordination of implementation of comprehensive activities. Within the program, the allocation of funds from the state budget for the recovery of banks was envisaged in 1996. However, due to a number of emergency measures, the crisis was overcome and the budget funds were not used; instead the problem was solved by attracting new shareholders. Among these measures, the introduction of an asset classification system in Armenia in line with international approaches was of principal importance. In terms of increasing the efficiency of banking regulation and making full use of the available tools, adoption of the procedure for classification of loans and receivables, and formation of a possible loan loss reserve fund on them was of key importance. This was put in force starting from the end of 1996 in phases; the assets and the provided loan portfolio formed previously was incorporated in the classification system in accordance with the specified procedure, within two years and in parts. In 1998, the risk classification of assets was also supplemented by the investment securities' classification and reservation procedure. These two categories made it possible to reveal the true picture of banks' assets, and based on it, to revalue the amount of capital. This mechanism obliges the bank to continuously revalue the assets, to reflect the possible loss in the balance sheet and to reveal the real amount of the bank's capital, and, accordingly - its financial condition. In fact, the introduction of the system enabled the banks to be more transparent, increase the level of their reliability, and finally get rid of unstable banks. Along with that, the increase in the minimum requirement rate of bank capital, the tightening of the regulation of activities and the clarification of control resulted in a decrease, by half,

of the number of banks in 1994-1996. Due to the considerably tough measures implemented in the aforementioned period and following it, quite high indicators of development were registered in the banking system. Such development of the banking system was also owing to positive tendencies in the economy. Due to the ongoing economic reforms, starting from 1996, macroeconomic stability, low inflation and ongoing economic growth were the main characteristics of economic development.

Sub-legislative regulatory acts have a crucial role to play in increasing the efficiency of the banking system, formation of a reliable banking system, as well as development of a comprehensive legal framework. The CB has the exclusive authority to adopt legal acts of regulatory and individual nature in order to solve the problems set for it by law. The acts of regulatory nature adopted by the CB, according to the tasks set for the CB, can be classified in several groups. A large group of normative acts has to do with the solution of other problems of the CB - development and advancement of an active payment and settlement system, organization and regulation of money circulation, regulation of foreign exchange transactions, and implementation of the CB banking-type transactions. Regulation of control and regulation of banking activity is an extensive part of the CB activity. A significant part of the CB sub-legislative regulations include the regulation of the activities of institutions operating under the control of CB, from their foundation to liquidation. The CB not only regulates and supervises the activities of its licensees in compliance with the law, but also contributes to their sustainable development. The development and application of basic norms of banking regulation was based on the principle of phasal transition to international regulatory standards. Terms of their application were set so as to, on the one hand, ensure the uninterrupted operation of the system, and on the other, provide the reliability and stability of the banking system. According to the principle developed and adopted in Armenia, the main part of legal acts adopted for regulation of the tasks and functions defined by the law on the CB is integrated in regulations, composed and approved in a certain extensive document logical order, and is continuously revised and elaborated. The aforementioned principle – the summary of regulations in the rules of procedures, unique at that point of the time, only later began to be applied in other countries. The above-stated working style aimed to recap and finalize the authorities and functions arising from the

CB tasks, made the CB functions more transparent for the participants and contributed to the efficiency of their application. Here is an example: Regulation 1. “Registration and licensing of banks and branches of foreign banks, registration of branches of banks and representative offices of the banks, qualification and registration of the heads of banks and branches of foreign banks”, which describes all possible tasks related to the licensing of banking activity, is an extensive document comprised of 240 articles and 43 appendices. Or, e.g., Regulation 2. “Regulation of banking activities, the main economic norms of banking activities”, Regulation 3. “Bank reports, their submission and publication”, etc. In 1996, the number of these regulations exceeded two dozen. Additionally, they do not fully cover all the regulatory acts of the CB, the list of which is quite comprehensive. They include by-laws and procedures adopted jointly with the Ministry of Finance – the state body authorized by the Government of RA. The CB by-laws played an exceptional role in drafting the current banking legislation. As a matter of fact, the norms regulated at a sub-legislative level were tested, amended, continuously revised and improved.

In fact, during that period, the main direction of the development of the banking legislation of Armenia was outlined, namely, the application of regulations at the sub-legislative level, which was followed by its formulation at the legislative level. Such a thorough approach to banking regulation at the sub-legislative level, the establishment of macroeconomic stability, economic growth, and structural shifts in the economy required further development of the banking legislation. The need for a banking legislation reform was also due to the fact that with the adoption of the RA Constitution on July 5, 1995, the process of formation of the State was accomplished. The Constitution, endowed with supreme legal power to cover the current developments, defined the diversity of property rights and freedom of economic activities, both being in the core of economic relations. The only constitutional norm directly related to the CB is the authority of the National Assembly to appoint the Chairman and the Deputy Chairman of the CB upon the proposal of the President of the RA.

Following the economic reforms in the middle of the 1990s, the economy of the Republic underwent qualitative changes, with the private sector playing a major role. The establishment of macroeconomic stability, and continuous economic growth, which the Armenian economy was characterized for in 1995-1996, resulted in a swift growth of the banking

system and significant inflow of foreign investment. Qualitative changes had taken place in the financial sector. The growing financial market set new tasks for the banks, the major market participants at that time, and the legal regulation of their activities became a necessary requirement for the development of both the financial market and the banking system. In the current situation, creation of the necessary legislative guarantees to promote the CB role became a priority.

The revised laws “On the Central Bank of the Republic of Armenia”, “On Banks and Banking” were followed by the laws of the Republic of Armenia “On Bankruptcy of Banks”, “On Banking Secrecy”, and the legislation became more comprehensive. Adoption of the aforementioned basic laws became a subject of intense debates, following which, for example, the law “On Banking Secrecy” was vetoed by the RA President in the RA National Assembly and gained legal power after overcoming the veto.

This comes to prove the growing interest of the public and the political forces towards the banking legislation. Norms discussed and adopted this way were more perceptible to the general public, which, in its turn, contributed to the growth of trust in banks. It is noteworthy that the average annual growth rates of the main indicators of the banking system, namely, capital, assets, and credit investments in conditions of stable macroeconomic environment and 6-7% annual GDP growth exceeded 50% in 1996-2000. The banking sector also became a preferred field for foreign investments. In a short time, numerous branches of foreign banks were set up. In 1996, almost half of the capital of Armenian banks belonged to foreign investors, and this is the case up to the present, with only one difference. The dominating part of foreign capital of Armenian banks in 1996 was European capital, whereas currently it is Russian capital or that of a Russian origin.

Development of the banking system based on the need for further proportional development of the legislation, acquired a certain internal logic. The adoption of the RA Civil Code (1998) was of vital importance in this sense. In addition to finalizing the civil-legal norms, regulation of the legal status of the participants of civil turnover, procedures on the origin and implementation of property rights, other property and non-property rights, contractual and other obligations, regulation of relations arising from the economic turnover, it generalized and supplemented the norms of the banking legislation.

Further development of the legislation was evolving in a specific way. Meanwhile, priority was given to institutional regulation, during which around two dozen laws were adopted covering institutions operating in parallel or carrying out certain types of banking operations and services. Adoption of the law on the introduction of a unified control system was critical; it brought about qualitative changes in the role and position of the CB of Armenia in the financial markets. Institutional changes in banking legislation, which the law of the mainland of Europe is based on, were followed by the adoption of a number of laws aimed to protect the rights of consumers - depositors, borrowers and other participants (this is the direction of Anglo-Saxon law). During the aforementioned period, the law "On the Central Bank" underwent significant elaboration, which reflected the changes that took place due to the revision of macroeconomic and monetary policies, and the reconsideration of the place and role of central banks in current economies. The legislative changes conditioned by the CB transition to the inflation-oriented strategy essentially altered the approach to the development, approval and implementation of monetary policy in terms of quality. The CB monetary policy, according to them, is of a discretionary nature. Each quarter the CB develops and approves a monetary policy program for the next 12 quarters, that is, for three years. This opens up new opportunities for the CB both in terms of solution of the defined goals and the tasks set by law, as well as the impact on macroeconomic policy. The framework of by-law regulations keeps growing. It will play an exceptional role in the development of banking legislation, banking and financial systems as a whole, both at present and in the future.

4. The process of development of commercial banks

The initial period of the activities of the banking system of the newly independent Republic of Armenia (1991-1993) was characterized by: the lack of an efficient system of control and regulation, high risks in the real sector of the economy, lack of a legislative framework which would protect the interests of banks, on the one hand, and that of the population and business community, on the other, lack of corporate culture, low quality of management, and non-transparency of banks. From the perspective of further development of the Armenian banking system, this stage had the following negative effects:

1. There was a loss of public trust in the banking system in the light of the predominance of arbitrariness and impunity for illegal “non-market” transactions in the financial market before 1994. It should be noted that the historical memory of the population is one of the most conservative factors in relation with the banking sector, and is crucial in the process of the banking sector development.
2. During the aforementioned period the assets and capital accrued during the Soviet period had been almost entirely devalued.

In a short period of time, in Armenia, as well as in the other former Soviet republics, many non-state banks were set up. The first bank among them was the Hayq Cooperative Bank, which received a license from the USSR State Bank in 1989. Later, before the collapse of the USSR, a number of non-state banks were established. It is noteworthy that this process continued in Armenia, where in the absence of legislation, the regulations of the former Soviet Union and the Russian Federation were applied (the CB of Russia was actually a single issuing center; however, until the end of 1993 the decisions in the sphere of banking were interpreted and applied in the RA). During that period, until 1994, commercial banks were set up that were licensed by the Central Bank of RA, among them closed and even open joint - stock companies. Many companies were established in the form of branches of Russian commercial banks. The main feature of the above-stated period was the following: on the one hand, the banking sector was attracting the accounts and capital of the state-owned enterprises and organizations, on the other hand, some ministries were setting up banks at the expense of the organizations under their supervision.

In conclusion, we can state that during the whole period of existence of the banking system of independent Armenia, there used to be 88 banks in different periods. Due to various reasons, such as bankruptcy and mergers, 67 banks were left out of the banking system during 1994-2003. Accordingly, 53 banks from 1994-1997 and 14 banks from 1998-2003 were left out of the system. The reasons for the cancellation of commercial bank licenses between 1994-1997 can be divided into three conditional groups.

The first group comprised the banks, which under the new rules of the banking activity regulation, used to violate the toughening regulatory requirements and due to lack of capital had fallen into a hopeless

situation or were simply insolvent. These made up a significant part of the banks which had lost their licenses. Above all, significant requirements were set for the total capital, capital adequacy, liquidity, and mandatory reserves of the bank liabilities. The urgency of recovery of the banking sector through cancellation of banking licenses was due, among many reasons, to the presence of all kinds of risks in the financial market and the aspirations of the majority of ineffective banks to overcome their problems by looking for non-standard solutions to the capitalization issues.

The banks of the second group were notable by the fact that during their activity they had considerable cases of violations of the law, and were trying to solve their current problems by attracting liabilities with unreasonably high interest rates via the pyramid mechanism. During that period, a number of non-bank financial pyramids, which were operating without licenses, adopted that working style ("JMZ", "Norinvest", "Aragast", etc.). The bankruptcy of such financial pyramids caused a wave of unrest throughout the country, creating distrust among the population towards the banking system. This was a serious shock for the fragile banking system of Armenia, undermining the development of banks for quite a long time.

The third group mainly comprised the branches of Russian commercial banks, which were initially set up as branches (with no separated capital). However, after the collapse of the USSR, the parent banks stopped presenting them to the state bodies of the RA and to enact the new legislative requirements. The branches became quasi-independent structures with no statutory fund, and not even a status of a legal entity. They were mainly dissolved due to non-compliance with the minimum legislative requirements.

It should be noted that from 1994-1997 bank mergers, changes in the owners' staff took place along with renaming. The second stage of financial recovery of the RA banking system took place during 1998-2003, when the process of license revocation was completed. During this period, the licenses of 14 banks were revoked.

In terms of promotion of the banking system, elaboration of the banking legislation, adoption in a new edition of the laws "On the Central Bank of the Republic of Armenia" and "On Banks and Banking" was of key importance. Nonetheless, leakage of confidential banking information caused serious problems. The fact that the law enforcement

and tax authorities could freely request information from banks about the taxpayers resulted in negative public and business community attitudes towards banks. Moreover, according to Soviet practice, the tax authorities had the right to freeze the accounts, as well as confiscate funds in favor of the State without a court decision. As a result, businesses and individual entrepreneurs tended not to keep a considerable amount of money in their bank accounts, which affected the amount of the collected cash. As mentioned above, in 1996 the law "On Banking Secrecy" was adopted, which provided access for state officials and other third parties to clients' accounts and information about the depositor/borrower exclusively with the consent of the depositor and/or by a court decision. The bank account balances were equated to ownership and, thus, their confiscation became possible only by a court decision or based on the account holder's acceptance. Delegation to the Central Bank of Armenia of the exclusive powers to carry out inspections, control and other audit-related functions of commercial banks was another revolutionary decision in the field of legislation. It affected the promotion of the banking system significantly and radically reduced the transaction costs of the banks in relations with state bodies, and particularly, the law enforcement authorities. This allowed the commercial banks to become free in their activities and from the direct interference of state officials.

As first steps to reform the banking system, the following requirements, enacted between 1994-1998, were put forth:

1. Mandatory information on sources of information;
2. Sources of information shall be verified by the CB;
3. The CB shall be independent of the Executive Power both in implementation of monetary and credit policy and regulation and control of the banking activity;
4. Investing in the bank's authorized capital to be made exclusively by cash;
5. The bank authorized capital cannot be formed from borrowed funds;
6. Requirements for bank licensing procedure. The Charter draft authorized, proposed organizational structure, business plan for the following three years, financial information on shareholders, future CEO and management work terms and professional experience, sources of capitalization of the new bank, target

market, information on the bank senior management, shareholders regarding their reputation and professional background;

7. Limitation of the maximum level of capital participation by one owner;
8. Disclosure of information on interconnection of shareholders and the senior executives.
9. When measuring fixed capital in accordance with the Basel core principles, the risk-weighted assets are taken into account;
10. Claims on subordinated loans included in the capital;
11. Deductions from the main and additional capital, in accordance with the Basel criteria when measuring the bank capital adequacy;
12. Mandatory classification of loans, investment securities and receivables and formation of reserve for the possible losses;
13. Application of Basel standards for currency risk management;
14. Mandatory external independent audit, criteria for selection of the audit company (licensed and accredited), and submission of a copy of the audit report to the CB;
15. Requirements for diversification of banking assets;
16. Regulatory criteria for implementation of liquidity, capital adequacy, operational risks for one borrower and large borrowers, insider operations;
17. Population deposit insurance with compensation rates, in the event of bankruptcy of the bank;
18. Consolidation of the bank's financial statements, including all subsidiary bank and non-bank financial institutions;
19. Submission of reports to the supervisory body on off-balance sheets;
20. Mandatory quarterly reports in compliance with the form and content defined by the law;
21. Identification of internal risk management procedures;
22. Personal legal responsibility for bank managers for providing unreliable or misleading information to the CB;
23. Defining the authority of the supervisory body to suspend the decisions of the banks on the distribution of dividends;
24. Availability of a strict legislation to deal with bankruptcy, financial insolvency and financial recovery with the right to suspend some or all property rights in the capital of the problematic bank;

25. Definition of solvency and the right of the supervisory body to apply immediate and unquestionable intervention.

It is noteworthy that the RA banking legislation developed in the 1990s is considered to be one of the most effective ones as in terms of currency regulation and control, flow of capital and current account liberal modes, to use for banking activity control, licensing and regulatory systems. This is not only in comparison with countries with economies in transition, but also among the recognised internationally successful ones.

In particular, the most efficient decisions include the drafting of a regulatory framework in the sphere of banking secrecy, classification of assets, development of a mechanism for creation of a reserve for possible losses, currency regulation, and the introduction of international standards for accounting and reporting. The RA Central Bank succeeded in providing highly effective institutional solutions, among them the establishment of a bank deposit insurance system and a credit register. There is no doubt the above-mentioned steps, increased the level of public trust to, and risk management efficiency of, banks.

The regulatory solutions for taxation of banking activities enforced in the second half of the 1990s contributed to the formation and promotion of the banking system. Among them were as follows:

- As opposed to other countries, the RA law “On Profit Tax” stipulated that when calculating the taxable profit base of banks, deductions from gross income will include reserves for possible loss of assets;
- When defining taxable base of banks’ profits, it was acceptable to reduce the gross income by the amount of lost assets and unearned interest income;
- Accelerated depreciation of computer facilities was allowed;
- An unprecedented preferential mechanism was applied in the RA law “On Value Added Tax” to the turnover tax on the sale of real estate pledged previously but owned by banks currently;
- It was stated that the positive effect of revaluation of foreign currency assets as well as fixed assets is not reflected in the gross income;
- The positive difference between the nominal and real value of stock is not reflected in the gross income;
- Establishment of preferential income tax rate for interest income received on bank deposits of natural persons.

The banking system, which stood out as a relatively regulated sphere as the result of the reforms, recorded a fairly high pace of expansion. In fact, as early as in the second half of the 1990s, essential prerequisites were in place in Armenia for the development of the banking system, both in terms of improvement of quality of the delivered services, and reliability of this type of business, investments, and attraction of foreign capital.

The restored trust of investors led to a vibrant and progressive promotion of the banking system capital, attracting funds, assets and liabilities over the next years. There were periods of decline in the past, particularly in the first years of the third millennium; however, following that, and to the present, due to a sound legal and organizational basis, the Armenian banking system has been standing out for a fairly high rate of growth, as compared with other sectors of the economy. In the last decade the key indicators showed an annual growth rate of 30%. It is noteworthy that even the global financial and economic crisis, which had a serious negative impact on both the developed and developing economies, and affecting the Armenian economy significantly (decline for that period was more than 14%), had a minor effect on the Armenian banking system. This is due to a number of factors, in particular, to the fact that the development of the Armenian banking system, in the past and currently, was and still is somewhat self-sufficient and isolated, with poor links with the economy. However, on the other hand, the development of the system is barely characterized by features typical of the Armenian economy, among them a high level of shadow economy, business convergence with the government, oligopolistic system of government and a high level of corruption, patronage of the government or some high-ranking officials.

To avoid the aforementioned risks, as well as thanks to the introduction of the world's best practices of regulation and control of banking activity, the RA banking system recorded significantly high rates of development throughout the whole period, and the 2008-2020 banking assets/GDP ratio increased from 30% to 108%, while the credit/GDP ratio increased from 10% to 63%, which is equivalent to the indicators of countries with fairly developed banking systems.

Yet, the RA banking system is not free from certain risks, which will affect the overall tendencies of the system development in the near future. First, surely, are the risks available in the economy, which will hinder

the RA economy development and penetrate into the banking system. Apart from that, in the current stage of the banking system development much importance should be attached to a number of issues, among them - the quality of system of capital and assets, introduction of up-to-date management systems, improvement of risk management mechanisms, and introduction of new services, which will ensure the harmonious development of the Armenian banking system as part of the world banking network.

PUBLIC FINANCE MANAGEMENT REFORM (1992-1998)



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After the demise of the USSR, in all the post-Soviet countries inevitable essential systemic changes took place both in the social, economic and political systems of public life, and in the sphere of governance, especially - in public finance management. To shed light on the key reforms in this domain, let us briefly describe the main characteristics of Armenia's budget system before the break-up of the USSR.

1. Armenia's budget system in the latter years of the USSR

It is common knowledge that any state's fiscal system is based on the structure of the state, public administration system and economic relations regulated by the legal provisions of the State.

According to Article 2 of the Constitution of the Armenian SSR, public powers in the republic were exercised by councils of deputies; thus according to Article 79 of the same legal act, the councils of deputies, i.e. the national Supreme Council, and local (region, city, urban district, urban-type settlement and village) councils formed an integrated system of representative bodies of public administration.

Articles 68 and 73 of the Constitution stipulated that the Armenian SSR exercised public powers in its territory independently with the exception of matters of all-union significance.

That is why in the territory of the Armenian SSR which was a constituent part of the USSR public powers were exercised by the three-tier system: all-union, national and local authorities, and the laws and secondary legislation adopted by the Armenian SSR and the laws of the USSR ratified by the Supreme Council of the Armenian SSR were effective in the territory of the Armenian SSR.

Therefore, the national fiscal system was a constituent part of the USSR's budget system. Thus, the budget of republican (national) authorities as well as the budgets of local authorities were part and parcel of the USSR state budget approved by the Supreme Council of the USSR, while the national taxation system, in its turn, was part of the all-union integrated taxation system.

Hence, the function of approval of socio-economic and other programs as well as budgets and execution reports thereof was divided among the representative powers on three levels: the USSR Supreme Council of deputies, the ASSR Supreme Council of deputies and national local councils. Therefore, the financing of the above programs was done in compliance with the all-union USSR budget, the ASSR national program implementation budget (called "republican budget" at that time) and the budgets of the administrative territorial units (their entirety was called "local budgets" within the period discussed).

The allocation of the state revenues that were collected in the territory of the republic in compliance with the legislative acts to the relevant budgets also reflected the three-tier structure of the state power. In particular, by law, state revenues were separated and allocated to the all-union budget of the USSR, the ASSR budget and the local budgets. The governance of the ASSR fiscal system on the national level of executive power was provided by the ASSR Ministry of Finance; in doing so, the latter was in charge of not only budget expenditure planning, financing and supervision, but also state revenue planning and collection. The Armenian SSR state budget defined the budgets of regions and cities of the republic in terms of the total amount of each region's and city's budget revenue and total budget expenditure. The segregation of the republican budget expenditure and that of the local budgets was also defined by law.

It should be noted that the local budget system consisted of 37 regional budgets and the budgets of 21 towns of republican significance. The budgets of the republic's regions, in turn, consisted of the budgets of the region and the budgets of regional towns and villages included in the administrative structure of the region. The budget of a city/town of republican significance, that comprised districts, consolidated the city budget and the city districts' budgets.

2. Functional and organizational institutional reforms of the RA fiscal system in 1992-1998

During the independence referendum on September 21, 1991, the Armenian people voted for secession from the USSR, which was followed by the break-up of the bloc a few months later. Under these circumstances, a transition from the three-tier system to the two-tier system was made which necessitated the consistency of the current fiscal system with the new realities - to be able to solve numerous problems arising after independence. In particular, the Declaration of Independence meant that the Republic became a sovereign state endowed with state power, independence, and full authority, where only its laws are effective over its territory, which must possess armed forces to maintain its security, immunity of its borders and protection of the unified economic space, have internal troops, state and public security bodies, and customs. The new fiscal system was to be able to respond to the above systemic changes, which, in its turn, required in-depth institutional (systemic) reforms therein.

In the context of institutional reforms; structural changes in the fiscal system began both by internal institutional transformation and by way of establishing new bodies.

By Decree No. 585 of the RA Council of Ministers of October 2, 1991, the state tax inspection started to function, which was composed of the head office and territorial tax bodies.

After secession from and the break-up of the USSR, there was a need to safeguard the unified economic space of the RA and to manage the RA budget revenues from foreign trade, which was an absolutely new function never performed before by the public administration system of the country, since in the USSR the customs reported to the central government and foreign trade revenues were entirely transferred to the central budget. As early as January 4, 1992, the RA President decreed the establishment of another body in the fiscal system, the Customs Directorate.

Along with the above, the internal institutional transformation started at the Ministry of Finance that encompassed the ministry's functions and structure.

Firstly, owing to the establishment of the state tax inspection, the function to inspect the timely execution of tax liabilities by taxpayers was taken from the ministry.

Later on, to improve the RA state budget execution system, to regulate budget expenditure, debts, and asset management and to bring them in compliance with international standards, the ministry separated the functions of budget drafting and budget execution (previously, in the ministry, the budget drafting units at the same time also organized budget execution), and by the RA Prime Minister's decree of 23/11/1995, No. 305, Treasury Department was established in the staff of the Ministry of Finance.

3. Establishment of the Treasury

The need to establish the treasury system was determined by the following circumstances:

a) budget funds turnover reliability, rate, designated purpose and yield left much to be desired. In particular, the accounts of budget-funded entities financed from the state budget and local budgets were opened in commercial banks and were serviced by the latter. In these circumstances, there was always a danger of partial or even total loss of funds from these accounts in case of bankruptcy of the servicing banks. In addition, taking into account the fact that budget entity's bank transactions were out of the Ministry of Finance's control, the latter, as a state budget execution and supervision body, was deprived of its function (especially, in terms of preliminary supervision), which was prone to the danger of inefficient and not designated spending of budget funds in some cases. In the context of scarce budget revenues there were numerous complications with state budget allocations due to insufficient budget funds despite significant balances on the accounts of budget-funded entities in commercial banks, allocated and unused for some reasons. Naturally, the above slowed down the turnover of budget funds and complicated management thereof; as a result, temporary usage of the balances of these funds and possible financial benefits were accessible to the commercial banks servicing these budget-funded entities and not to the owners of these funds (the State or local self-government bodies).

b) Separation of the functions of budget drafting and budget execution, and implementation by different divisions was intended to improve the quality of these two functions and aimed at the functional independence of budget execution from the budget drafting. At the same time, taking the burden of budget execution issues from budget drafting divisions

enabled the latter to focus on the improvement of budget planning quality, including analytical work and planning the time horizon.

As a result, priority measures for the introduction of the Treasury system in the Ministry of Finance were drafted and approved by the RA Prime Minister's Decree No. 368 of 25/06/1996, specifically, the list of local Treasury branches of the Ministry of Finance, the Treasury charter, and the provisional procedure for the expenditures executed by entities funded from the national and local budgets.

In order to bring the accounting and reporting related to the national and local budget revenue and spending in compliance with international standards, and to improve execution mechanisms of these budgets, the RA Prime Minister's Decree No. 533 of 25/09/1996 stipulated that the budgetary, extrabudgetary and other bank accounts of state and local bodies, as well as their subordinated entities funded from the national and local budgets (referred to hereinafter as budget entities) shall be closed from October 1, 1996, and the balances on these accounts shall be transferred to the integrated account of the Treasury of the Ministry of Finance in the RA Central Bank. From now on, operation expenditures of budget entities, implementation of programs and activities thereof, and accounting of the accounts of these entities was done by the functional and local divisions of the central Treasury of the Ministry of Finance.

4. New fiscal legal framework within institutional reforms

Naturally, regulation and efficiency of the above newly established state bodies called for the amendment and modernization of the current fiscal legislation. In turn, these bodies had to study the diverse international experience, in order to draft and apply the most suitable models of budget and tax legislation for the country. The assistance in studying the international experience provided by Armenia's external partners (USAID, the Government of France, World Bank, OECD, etc.) is noteworthy.

As a result, a package of major legal acts was adopted across 1992-1997 to regulate the fiscal system activities (including but not limited to over 15 laws).

The new RA Constitution adopted by the July 5, 1995 referendum that introduced the territorial division of this country and the new system of local self-government, especially, the provinces (instead of the former regions)

and communities, laid the foundation for the regulatory framework for the relations in the RA budget system.

At the same time, it was defined that local self-government shall be exercised in communities. In order to manage community property and to solve community problems, local self-government bodies shall be elected: the community council (instead of the former council of deputies) and the community leader, i.e. city or village mayor (instead of the former executive bodies of the councils of deputies), and by mayor's motion, the community council adopted the community budget, supervised budget execution, and imposed local duties and fees as required by law.

At the same time, it was stipulated that public administration shall be executed in the provinces, and the government will appoint and discharge provincial governors to implement the government's territorial policy and coordinate the activities of the territorial services of the executive bodies.

The modification of the administrative and territorial structure under the new Constitution and the establishment of new state and local authorities in these structural units necessitated the review of the budget process under the current legislation.

Certain issues were regulated by the RA law "On Local Self-government" adopted by the National Assembly on 30/06/1996, which stipulated that cash execution of the community budget is done by the RA Treasury. On this occasion, the RA Prime Minister's Decree No. 533 of 25/09/1996 stipulated that the functional and local branches of the Central Treasury of the Ministry of Finance ensure the execution of spending and programs/activities set forth in the budgets of the operation costs of budget entities as well as the accounting of the accounts of these entities.

It should also be noted that the above law came into force on November 10 of the year it was adopted, when elections were held in communities and local self-government bodies, i.e. the community council and community leader, were established, and until the beginning of the budget year of the new 1997 less than two months were left. In these circumstances, in the absence of a legal institutional act regulating budgeting relations in conformity with a new reality, based on the funding needs (budget) for the activities of the newly elected bodies in 1997, the RA law "On the 1997 state budget of the Republic of Armenia" set forth certain regulations for the legal institutional act. Thus, the above law stipulated the list of revenues assigned to community budgets as their

own income (including Yerevan's budget) by 100% in the 1997 budget year. It should be noted that previously local budgets (as a rule, regional budgets) also financed education, healthcare, social security and some other spending. Under the RA law on local self-government the number of communities amounted to 914, most of which had small populations and were unable to implement - due to their own limited resources - such large projects that were possible in the past for the regional bodies of power abolished by the new constitution.

Due to this fact, the RA law on the 1997 state budget stipulated that most of expenditure on education, healthcare, social security and some other spending previously financed from local budgets shall be assigned to the state budget; the budget financing of these sectors was transferred from local self-government bodies to the RA state governance bodies. In unison with the above, the law stipulated to assign to the community budgets in 1997 a small portion of budget revenues previously assigned to the local budgets by law: land tax and property tax, local duties and other non-tax incomes. In addition to the above revenue, the City of Yerevan budget additionally received the state duties collected for marital status registration and notary services.

Also, the RA law on local self-government provided a new regulation concerning the authorities delegated to the communities by the State as concerns financing, providing that in 1997 they will be implemented at the expense of allocations in the RA 1997 state budget for the relevant authorized executive bodies in charge of distribution of delegated activities.

To prevent budget debts, the RA law on the 1997 state budget also provided that the Yerevan mayor and community leaders shall finance expenditures under Yerevan and community budgets within the limit of actually collected revenues; in doing so, during the execution of these budgets, the salaries of budget entities, the RA social security payments and the RA pension and employment fund allocations are protected and financed in full from relevant budgets.

It should be noted that most of the regulations concerning the budget of the local self-government system under the RA law on the 1997 state budget, later on served as the foundation for institutional regulation. Thus, the fundamental legal act, "On the RA budget system" adopted by the National Assembly on 24/06/1997, coordinating relations in budgeting preserved the fundamental approach to the separation of revenue and

expenditure between state and community budgets and the relations between state and community budgets.

The law “On the RA budget system” being a legal act regulating institutional relations in the budgeting sphere was based on the 1995 Constitution.

Thus, the law “On the RA budget system” reviewed the essence of the notion “state budget” and replaced it with the previously used “republican budget”, and the sum total of revenues and expenditures of state and community budgets was called “consolidated budget”.

Under the new 1997 law “On the RA budget system” the budget system was defined; and its components, revenues and expenditures were separated. Expenditures included spending on defense, national security, embassies’ security, and state debt servicing, previously not financed from the budget of the republic. Budget drafting and execution as well as budget execution report processes were defined.

The new law also regulated a number of other new fundamental principles. Thus, the requirements to the structure and content of State and community draft budgets were set forth, as well as the fact that budget execution is done based on the integrated cash box principle, which provides collection of all revenues (incomes) and implementation of spending on the account of the integrated Treasury of the Ministry of Finance, and that all the State and community bodies and subordinated budget entities open their accounts exclusively at the branches of the Treasury of the Ministry of Finance that service them. At the same time, it was provided that budget spending on the procurement of goods and services will be performed under the law on state procurements (when such a law is adopted), and that contracts (agreements) which create liabilities of the State and local self-government bodies are subject to mandatory registration at the Ministry of Finance.

In addition, this law specifies the Ministry of Finance functions and competences in state and community budget drafting and execution and methodology guidance. The list of main notions used in the budget law is more detailed and comprehensive, e.g., consolidated budget, budget year, budget entity, budget revenue, spending, expenditure, inflow and outflow, budget surplus and deficit, free balance, budget loan, borrowing and budget guarantee, reserve funds of the government and community budget stipulated by state budget, and spending restriction (sequestration) mechanism. Budget classification was also defined,

the structure of budget income and spending classification, budget grants (including equalization grants) and subventions, the ways to regulate relations between two levels of the budget system, budget drafting and budget execution. The provisions concerning inspection and supervision over budget execution, and budget transparency were clearly defined.

No doubt, over the years, parallel to the experience gained in budgeting and reforms, the above law was amended; however, it comes without saying that this law in its initial version laid sufficient foundations for budget reforms.

5. The RA state debt policy in 1992-1998

Budget deficits and state debt have long become an integral part of the budget system in many countries. In this respect Armenia, which has faced this problem in its complexity from the very first days of independence also was no exception. The gap between the scarce budget revenues managed by the Government and the financial resources needed to solve priority development problems of the country was getting deeper year after year, owing to the poorly executed state budgets. This also generated overdue budget debts to businesses for services provided to the State, which in some cases caused defaults in payments with all the negative financial and economic consequences.

In international practice, in case of insufficient financial resources, the state attracts loans from internal and external financial markets which determine the country's state debt.

In this respect, it should be noted that in accordance with the agreement between RA and the Russian Federation of September 7, 1993 "On regulation of the legal succession issues pertaining to the external state debt and assets of the former USSR", Armenia transferred its share of the external state debt of the USSR to Russia as of December 1, 1991, and its share of assets, as a result of which, as of the time of gaining independence, Armenia's external state debt was nearly zero.

At the same time, it should be noted that in the first years of independence, attraction of resources from both the external and the internal financial markets was an important problem for the reconstruction of the disaster area, and in order to avoid the economic collapse of the country, owing to the disruption of economic ties after the break-up of the

USSR, and the economic blockade caused by the conflict over Nagorno Karabagh.

To solve this major problem the government took loans from the EU, the Russian Federation, and the USA. At the same time, Armenia started to cooperate with the IMF and the World Bank, and in 1992 became a member of these organizations. As a result, the country was able to invest significant financial resources, i.e., grants and long-term preferential rate loans, which were extended, as a rule, in conjunction with the implementation of targeted programs agreed upon between the government and these entities. The above funds were allocated for budget support and stability of the banking system, and for the recovery of the economic infrastructure and certain targeted programs. It should be noted that to implement the programs supported by the World Bank, the government established program implementation units within relevant institutions.

Parallel to the efforts to attract preferential-rate loans, the government also embarked on the restructuring of the loans extended without preferential rates, as a result of which in 1997, for the first time in the history of this country, state debt restructuring took place. An agreement was signed with the Russian Federation, according to which five previously functioning loan agreements were consolidated, under the new agreement the averaged repayment date was extended and the average interest rate was reduced.

Parallel to the attraction of funds from external sources, from the early 1990s, the first steps were made to form a government securities market (which is part and parcel of the securities market) and to finance the state budget deficit from the financial resources of this market.

- In 1993-94, the circulation of internal bonds was organized;

- In 1994, in the context of wide-spread non payments, the circulation of ordinary treasury bonds started. The Ministry of Finance gave the state budget-financed entities bonds worth a certain amount, minimum AMD 1 million, thus to pay for the provided goods and services. From 1995-96, ordinary treasury bonds worth 909 and 893 million drams, respectively, were put into circulation, which were later redeemed by the state budget;

- 1995 saw the circulation of government (treasury) short-term bonds (T-Bills), 1996: government short-term coupon paper-based bonds and in 1997: government short-term coupon (electronic) bonds. During 1996-97, the emission of government bonds significantly increased.

Thus, in late 1995 the nominal value of circulating T-Bills amounted to 210 million drams, whereas in late 1997 it was already 23.1 billion drams. Parallel to the growth of emissions in 1997, also increased the maturity. Between 1995-1996, most emissions were 28 and 91-day T-Bills, whereas in 1997 the proportion of 182, 273 and 364-days T-Bills – significantly increased.

In this respect it should be mentioned that in the domain of internal and external sections of the state debt the government implemented somewhat various policies in those years. Thus, if the external debt policy focused on the attraction of cheap privileged and long-term borrowing, in the first years of the internal debt the policy mostly focused not on cheap debts but on the organization of securities circulation, increased amounts, and on the gradual formation of the internal market of government securities by means of confidence building on the internal market.

The above activities, in addition to replenishing the state budget with financial resources established sufficient grounds for the enhancement of this country's budget system and state debt stability for future reforms.

6. The reform of the accounting system

The accounting system reforms started in the early 1990s. The purpose was mainly to solve current problems related to the transition to a market economy. The concept of accounting was not clarified in those years in Armenia.

In May 1998, the RA law "On Accounting and Bookkeeping" was adopted, which defined the general concept of accounting in Armenia, and global accounting reforms started. To specify the accounting concept and to conduct efficient accounting system reforms, the RA government in November 1998 adopted programmatic decision No. 740 "On the Accounting System Reforms", according to which the RA Ministry of Finance and Economy, based on the International Accounting Standards (IAS) published by the International Accounting Standards Board (IASB), from 1999-2000 adopted the Accounting Standards of the Republic of Armenia (ASRA) which consisted of 34 standards. The number of ASRAs, the titles and numeration matched the number, the titles and numeration of IAS as of January 1, 2001. The content of some ASRAs entirely corresponds to that of the relevant IAS, and some ASRAs were insignificantly modified, if compared with IAS. Modifications

mostly concerned reduction of alternative approaches in the IAS and approximation of IAS provisions to the RA legislation.

Based on the adopted ASRA, from 1998-1999 the RA Ministry of Finance and Economy developed, and in 2000, approved the final text of the chart of accounts for the financial and economic activity of organizations.

Based on the adopted ASRAs, from 1999-2000 the RA Ministry of Finance and Economy developed, and in 2001, approved the final text of the package of documentation for financial reporting of organizations and the procedure for filling out the latter.

To assist the accountants during ASRA application, the RA Ministry of Finance and Economy developed, and in 2001, adopted a brief ASRA guide.

7. Establishment of the Control Chamber

After gaining independence, the newly evolving political and economic relations in Armenia required the establishment of a state supervision system that would be capable of safeguarding the interests of the State and society in the context of liberal economy. At the same time, it was necessary to create a new legislative framework in order to implement the principles and approaches of financial supervision. The Control Chamber of the RA National Assembly played the role of such an entity as a new system of state financial supervision. This entity implementing the function of external state supervision was established on May 29, 1996 (since April 9, 2018, Audit Chamber)[1].

The objectives of the Control Chamber of the RA National Assembly were professional supervision over state revenue and efficient spending of resources, ensuring the transparency of their usage. The other important function of the Control Chamber of the RA National Assembly was analysis of reports submitted to the National Assembly. Thus, the annual report on the RA state budget execution was discussed in the National Assembly in conjunction with the conclusions of the Control Chamber.

Armenia's Control Chamber was established by the RA National Assembly and was subordinated to the legislative body of the country.

[1] See: http://armsai.am/

The Control Chamber submitted semiannual memoranda, current supervision reports, annual action plans of the board and reports to the National Assembly, publishing its survey results.

The basic principles of the Control Chamber (Audit Chamber) of the RA National Assembly are independence, collegiality and publicity.

The Control Chamber functioned autonomously, independently of the bodies of state power governed by the Lima Declaration and INTOSAI principles (International Organization of Supreme Audit Institutions). Since the Control Chamber of the RA National Assembly was an entirely new entity, its first steps were aimed at the definition of structural units, professional directorates and the scope of the board's activity. According to the Charter adopted by the National Assembly, the Control Chamber incorporated four divisions: state budget, privatization and denationalization, foreign borrowing and loans, analysis and information/ methodology divisions. Later, due to amendments to the Charter, the community budget supervision unit was added to the board.

In 1998, the Control Chamber of the RA National Assembly became a member of INTOSAI (International Organization of Supreme Audit Institutions), in 2000, a member of EUROSAI (Organization of Supreme Audit of European Countries). In 2007, the Control Chamber also became a full member of ASOSAI (Organization of Supreme Audit of Asian Countries).

MAIN DIRECTIONS OF THE ESTABLISHMENT AND DEVELOPMENT OF THE RA TAX SYSTEM

Overview of the tax system applied in 1991-1998

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1. The RA tax system during the last years of the USSR

Amid the conditions of the state-owned property domination of the USSR's strictly centralized system of governance and economy, no tax system in its classical sense existed, although some of its specific components were partially enacted in the sphere of financial management. As a matter of fact, taxes were established exclusively for the private sector, while the latter's role in the economy was utterly insignificant. All those payments the state enterprises made to various levels of the budget often had tax names and perception (turnover tax, fund contributions, etc.), but given their economic content these could be viewed as taxes with great reservation only. Why? Because within that very system the enterprises, in fact, had no financial independence at all. It was the State that decided on the needs of all enterprises with regard to financial resources, and correspondingly earmarked all the free funds (the so-called free balance) for their budgets. A unique system of net income allocation to the budget was created for the state enterprises. In the beginning, the turnover tax was levied on enterprises in those sectors where, as a result of the state-defined price factors, additional revenues were generated. Then, through earmarking, the part of the profit which the State considered not to be ring fenced for the needs of the enterprises, was transferred to the budget. Within this mechanism, according to experts, as much as 80-90% of net income was sometimes deducted from the state-owned enterprises.

Subsequently, because of the above circumstances and the absence of other features characterizing tax systems, generally the

academic circles considered the statements regarding tax system existence in the USSR inappropriate. The only advantage that could be attributed to this system, was, perhaps, its predictability and long-term immutability.

The tax system establishment in the USSR began in 1990, when the enterprises based on other forms of ownership within the economy acquired an active role. At the same time, this was the period of implementing extensive preparatory work towards tax system reformation when it became necessary to use taxes as a tool for regulating the expanding market relations, and to ensure integration and sustainability of the tax system.

On January 1, 1991 the USSR law "On Taxes Levied on Enterprises, Associations and Organizations" was adopted. According to this act, the following Union-wide tax types were defined: profit tax, turnover tax, export and import tax, income tax, etc. In 1991, by a decree of the USSR President, for the first time a principally new and unfamiliar tax type – the sales tax, was defined and put into practice.

Along with the implementation of radical reforms in the taxation policy sphere and adoption of relevant legal acts pertaining to certain types of taxes, structural reformation commenced in tax administration as well.

The decision of January 1, 1990 of the USSR Council of Ministers greatly contributed to this process: according to which the General State Tax Inspectorate was established within the structure of the Ministry of Finance, and its rights and responsibilities were clearly defined.

While describing the changes in the tax policy and administration in the territory of the USSR in 1990, it should be noted that due to the nature of the existing political system, they could not bypass the Union republics.

It is noteworthy, however, that these changes, starting from the second half of 1990, evolved in parallel with the creation of a legal basis for having an independent tax system in the republics of the USSR. In particular, already on December 27,1991, Russia had adopted the law "On the Fundamentals of the Tax System of the Russian Federation", which defined the principles and structure of the construction of the RF tax system, as well as the rights and responsibilities of taxpayers and tax authorities. Earlier, on March 21, 1991, the RSFSR law "On State Tax Service" was adopted. Further on, in 1992, the tax investigations

department was set up under the state tax service, which a year later was restructured to function as a Tax Police Federal Service of Russia – a law enforcement agency in the taxation sphere.

Steps towards setting up independent tax systems started to be taken from mid-1991 in almost all other republics of the Union – varying in the fulfillment pace and coverage.

2. Creation of the RA tax policy legislative framework

In the Republic of Armenia, the enactment of an independent tax policy started in 1992, with a gradual formation of the legislative basis that ensured the essential prerequisites for implementing a relatively independent tax policy.

After January 1, 1992, within a very short (a little more than two weeks) period of time, the taxes to be applied in the RA territory were defined, in certain areas – as were the legal relations regulating them, based on around 15 by-laws (such as presidential decrees, government decisions, and orders of the State Tax Inspectorate).

Such hastiness adopting the above documents regulating taxation relations was mainly attributable to the following circumstances:

Firstly, on December 27, 1991, the law “On the Fundamentals of the Tax System of the Russian Federation” was adopted together with the RF laws on certain types of taxes, which became operational immediately, starting from January 1, 1992. To avoid quite obvious financial difficulties in this situation, the Government of Armenia certainly needed to quickly adopt harmonized tax regulations applicable in the de facto common economic area (this relates, in particular, to the value-added and excise taxes levied in accordance with the principle of taxation of the country of origin).

Secondly, the economic transformations that were instituted and developed in the former Soviet territory, required to elaborate a principally new tax policy, designed to serve as one of the most essential tools for regulating developing market relations and, at the same time, to ensure stable financial resources for the state budget.

Hence, in spite of inevitable shortcomings, the swift adoption of the relevant documents in the form of by-laws on the types of new taxes was necessary and justified.

Subsequently, as soon as possible, amendments and changes were made to the adopted by-laws on certain types of taxes, and submitted to the RA Supreme Council as draft laws.

Thus, on January 18, 1992, the legislative body passed the laws “On Profit Tax”, on April 19 – “On Taxes and Duties of the Republic of Armenia”, and between 1994-1995 – “On Income Tax, Land Tax and Property Tax”.

In fact, this was the first time when in Armenia the legislative basis was developed and even though it was not perfect, an independent tax system had been created.

Meanwhile, the process of urgent and hasty elaboration of the tax laws within this period also led to certain consequences with some peculiarities typical for this stage of the RA tax system.

Summarizing the observations of a number of experts, let us dwell on the main peculiarities of the tax system introduced in 1992 in the RA.

Identified and discussed as a peculiarity (sometimes also as a deficiency) is the similarity and interrelatedness of the taxation mechanisms stipulated in the tax legislations of the RA and former USSR republics, especially the Russian Federation (in particular, implying the value-added tax levied on the basis of the principle of taxation in the country of origin).

First of all, the application of VAT basing on the principle of the country of origin was conditioned by the fact that in practice our country in 1992 had not yet ceased to be part of the USSR’s common economic area, and under those circumstances the VAT taxation was applicable using the method of the country of origin, not that of the country of destination.

As for the similarities of the tax laws, the following fact should be taken into consideration: for countries in the transition process these similarities were inevitable. Thus, most experts, including those in Russia, state that when switching to market relations, Russia introduced a tax system similar to the systems established in major federal states. There are many parameters to identify similarities especially between the tax systems of the United States and Germany. There is a clear explanation for the causal links between the similarity of the tax laws of the countries in the early stages of transition and the developed ones, which we will revisit on another occasion.

The tax legislation instability was yet another crucial peculiarity of the initial stage of the RA tax system development. The enforcement of the legislation often required adoption by the tax authority of by-laws,

such as calculation and collection of taxes, and instructions clarifying the relationship between taxpayers and tax authorities. Such documents were numerous. Almost each year, often several times a year, many changes and amendments were made to these legislative documents. Despite this, many regulations and by-laws regulating tax relations often contradicted each other. These contradictions created a fertile ground for tax evasion.

It looked like a real vicious circle. On the one hand, the existing inconsistencies in the legislation could be eliminated through the necessary changes, on the other, however, these changes were not desirable from the point of view of ensuring tax legislation stability. The solution to this problem was seen mainly in providing necessary knowledge and expertise to the relevant specialists, which, in fact, was implemented in the years that followed.

Within the whole complex of tax legislation in the RA, the issue of the taxpayers' insufficient awareness about the changes stood out. Especially in the earlier stages of formation, the level of the tax inspectorate staff's professional preparedness was far from being adequate. Nevertheless, in order to qualitatively assess the situation, it is necessary to ground the judgments not on the description of the problems (in fact, these problems, with insignificant deviations, which existed in almost all transition countries), but on what measures were taken to mitigate their negative consequences.

From that point of view, perhaps the most memorable event was the publication of the "Tax Newsletter" periodical in 1994 by the RA Tax Inspectorate. It was designed to partially fill the gap in public awareness, using various methods – from publication of orders and methodological instructions, to the disambiguation of legal provisions through "question and answer"-style features. On a monthly basis, the methodological questions submitted to the tax service and their feedback were made public through the "Tax Newsletter". In the context of the given period of time, the content, targeting and even the fact of publication of the periodical itself were, to certain extent, unprecedented.

Yet another important peculiarity of the RA tax legislation in the transition period worth specifying is the level of tax burden. Under the circumstances of profound restructuring and serious inflation in the economic sphere, the tax system was supposed to provide budget revenues with financial resources in order to meet the minimum needs

of the State. The fiscal nature of the RA tax system was justified by the country being in a state of war, the existence of a narrow tax base, the blockade imposed on communications, as well as the unfavorable economic situation resulting from a number of other circumstances and reasons. Nevertheless, in the mid-1990s, the RA implemented significant reductions of the rates of the main tax types: income tax and value-added tax. In particular, the rates of the profit tax and VAT were reduced from 30 and 28% respectively to 20%.

Presenting herein a brief overview of the RA legislative framework formation process in 1992-1998 would be incomplete without referring to the practice of discussing and approving the interstate agreements "On Excluding Double Taxation of Income and Property", initiated by the Tax Inspectorate in 1994. These agreements actually cover all issues related to the foreseeable cooperation of the parties to the treaty in the field of taxation. On the one hand, these allow the exclusion of double taxation and contribute to the implementation of mutual investment projects from a taxation viewpoint, however, on the other hand, they facilitate creation of a stable and predictable tax framework. Without going into much detail regarding the content of these agreements and their drafting requirements, let us state that by the end of 1996, relevant documents were successfully signed with almost all major economic partner-countries of Armenia, those being: Bulgaria (effective since 1995), Ukraine (1996), China (1996), Iran (1997), Romania (1997) and Russia (1998).

Summing up the description of the peculiarities of the RA tax legislation framework operating until 1997, the following should be stated: the possibilities of its more detailed presentation in this article are limited, and if necessary, these will be laid down in another format or on other occasions.

Based on the analyses of the RA tax system during 1992-1996, on April 14, 1997 the foundational amended legislative act – "On Taxes of the Republic of Armenia" – was adopted, regulating the relations in the taxation sphere of the Republic.

The RA law "On Taxes of the Republic of Armenia", serving as a legal act defining and regulating the structural relations in the sphere of taxation, actually integrated the tax management experience accumulated in the preceding period of time and expressed the regulation of fundamental legal relations in that field on a legislative level.

The RA law “On Taxes of the Republic of Armenia” adopted in 1997 defined the concept of tax in the Republic of Armenia, types of taxes, tax privileges, the procedure for resolving tax disputes, liability for violations of tax legislation of the Republic of Armenia and of other legal acts regulating tax relations, as well as those principles on which the RA tax legislation and other legal acts regulating tax relations are based.

In particular, it stipulated that the tax relations in the Republic of Armenia are regulated by:

a) the tax legislation which comprises the RA laws “On Taxes” and on specific types of taxes;

b) the RA government decisions – only in the cases and to the extent stipulated by the tax legislation;

c) the acts adopted by the tax authority, as well as, in cases stipulated by law, by other bodies of state administration, in the cases and to the extent stipulated in the tax legislation or government decisions.

It was fixed that if the provisions of the RA tax legislation and other legal acts regulating tax relations contain discrepancies or misinterpretations, for the purposes of taxation those provisions shall be construed - as well as applied - by the tax and customs authorities in favor of the taxpayers.

Also, in order to partially prevent frequent modifications of the tax legislation, it was stipulated that the alteration of the tax rate, tax introduction or its elimination should be made solely from the beginning of the fiscal year (whilst in case of approving the state budget in the course of the fiscal year – starting from the time of such approval), unless otherwise specified in the law for a specific type of tax.

Furthermore, the law provided a detailed and inclusive list of the tax types and privileges applied in the RA; the taxpayers’ rights and liabilities, as well as tax collection supervision, were thoroughly specified.

It is noteworthy that prior to legislatively defining the taxpayers’ rights and liabilities, the RA government with its April 17, 1995 Decision No. 213 “On Approving the Order of Carrying Out Inspections and Studies of Enterprises, Institutions, Organizations and Private Entrepreneurs Operating in the Territory of the Republic of Armenia by the State Tax Inspectorate bodies” specified the procedure of carrying out inspections with taxpayers, which further on was exercised - in so far as it did not contradict the RA law “On Inspections” adopted by the National Assembly on May 17, 2000.

The above legislative documents aimed at ensuring the protection of taxpayers' rights created the necessary preconditions for further legal regulation in this area.

In keeping with the law "On Taxes", from 1997-1998 the following new laws were passed: "On Excise Tax", "On Income Tax", "On Profit Tax", "On Property Tax", as well as the RA laws specifying alternative taxation mechanisms: "On Fixed Payments" and "On Simplified Tax", which better corresponded to the requirements posed in the new setup with regard to the regulation of the legislative framework of tax legal relations. These changes were geared towards clarification of the tax legislation provisions and improvement of taxation mechanisms, as well as comprising certain elements of tax burden relief in the RA. It is noteworthy that for the first time the principle of a single taxation was stipulated in the legislation: the same object of taxation could be taxed only once within the same period, with a specific type of tax.

Trying to differentiate the tax processes in Armenia from 1991 to 1998, some researchers present them in two stages: before 1997 as the formation phase, and thereafter – as the reform phase. We consider such an approach as being a result of superficial analysis and insufficient advancement in the professional area. Obviously, it would be at least a mistake to lay in the basis for such a division the mere circumstance of adopting the corresponding legislative documents in April 1997, since, in fact, these did not emerge as a result of just a few months' work. They were the outcome of comprehensive research of the government's 1992-1996 tax policy, carried out by high-level methodologists who already had sufficient experience in the RA tax service, and who had taken into account the recommendations based on international best practices.

This is why we tend to affirm that in professional analytics it is necessary and reasonable to regard the period of 1992-1998 as one coherent stage of the RA tax system formation and implementation of the reforms thereof.

3. The RA tax system administration reforms in 1991-1998

In 1990, the USSR with its republican systems of governance underwent radical structural changes. The transition to market relations and, consequently, the need to create a real tax system, also brought

about the need for structural provision of a new tax administration. This specifically meant reformation of the state revenues service that functioned under the Ministry of Finance so its organizational structure could ensure transition from the command-and-control style to a market economy. Most importantly, it was not merely about specifying the functions of the service, but also its position and role within the state governance system. As a rule, all the USSR republics, Armenia included, delegated the competences of forming their tax systems to the newly created tax services, rather than to the Ministry of Finance. This approach had its causal justifications, which will not be presented here. Suffice it to say that in terms of the objective put forward, the decision was reasonable.

Based on the RA Council of Ministers' Decision No. 585 of October 2, 1991, the State Tax Inspectorate (STI) under the RA Council of Ministers was established.

Actually, with this decision the formation of the RA independent state administration system was kicked off in the post-Soviet period.

Looking back on the past history, one can state that the STI was created almost from scratch. Apart from approximately 1,450 specialists transferred from the system of the Ministry of Finance, and the recruitment of more than 300 employees from the Ministries of Interior and National Security, in fact, in the initial period of formation, mainly due to objective reasons, the agency received no other assistance.

The physical conditions and equipment were almost completely unavailable (just a few rooms in the building of the Ministry of Finance were provided for the STI Deputy Heads use only). No vehicle fleet needed for inspections was available. Moreover, the tax legislation and the regulatory documents that form the basis of the STI activity were still in an initial stage of drafting.

As for the support of and providing continuity to the specialists transferred from other structures to the Inspectorate, undoubtedly some of them later played a significant role in the development of the RA tax system, but initially they, too, needed assistance to become proficient in the new legislation and in independent decision making in the status of an independent country's civil servants.

The State Tax Inspectorate initially had the following organizational structure:

a) central apparatus,

b) 50+ urban and regional tax inspectorates.

Logically, the function of inspections was preserved in the central apparatus. However, over the course of time, depending on the requirements of the new legislation, the expansion of the competences of the tax authorities in a market economy, as well as the clarification of functional responsibilities within the service, the content of these inspections, their forms and methods of implementation have changed. This became especially visible after adoption of the RA Government Resolution No. 213 of April 17, 1995 "On Approving the Order of Carrying Out Inspections and Studies of Individual Entrepreneurs Enterprises, Institutions, Organizations and Private Entrepreneurs Operating in the Territory of the Republic of Armenia by the State Tax Inspectorate bodies".

Within the competences of the State Tax Inspectorate and the structure of the central office, two important functions were defined, which, unlike inspections, had never been performed by the tax services. This refers to the methodological, as well as investigative and intelligence activities to be carried out by the STI.

It was specifically due to the efforts of the staff of the methodological department created within the tax service that the RA tax system was formed and succeeded in 1991-1998; the structure of the State Tax Inspectorate and its central office was defined; the relationships and functions of different subdivisions of the central office and territorial tax inspectorates were clarified.

In fact, the department, with less than 15 employees, was able to swiftly develop and introduce the legislative basis of the tax policy and administration implemented in the Republic of Armenia. In total, more than 100 draft laws, government decisions and STI directives, of course, required quite a number of administrative decisions for their introduction and application. We believe that they deserve a specific study and adequate evaluation.

In conclusion of this brief overview of the main directions of the RA tax system formation and development during 1992-1998, I would like to finalize it with the following observation.

Although during the years that followed 1998 significant changes and amendments were made in the previously adopted RA tax laws, based on the experience accumulated in the sphere of tax policies and administration, and brought about by the new strategic issues that appeared in the Republic, the practice showed that the 1992-1998

legislation, as it was initially elaborated, had already laid an appropriate foundation for the necessary developments in this area, geared towards implementation of full-fledged state tax administration in the Republic of Armenia.

INDUSTRY OF THE THIRD REPUBLIC OF ARMENIA



ASHOT SAFARYAN
Minister of Industry, 1991-1997

ARMEN KIRAKOSYAN
Member of the National Assembly, 1995-1999
Deputy Minister of Light Industry, 1993-1995
Deputy Minister of Industry, 1995-1997

1. Background

Prior to the independence of the Republic of Armenia, there were two industrial regulatory bodies in Soviet Socialist Armenia: the Ministry of Light Industry and the Ministry of Local Industry. In addition, there were a number of enterprises and scientific-research institutions belonging to so-called "heavy" industry, which were accountable to the "Center", AKA the various sectoral ministries of the Soviet country (industry, defense, defense industry, machine building, etc.). Thus, when Armenia gained independence, a number of state-owned enterprises were left without a particular supervising body; and a need emerged to establish a competent state authority to regulate these enterprises. Hence, in December 1991, the Ministry of Industry of Armenia was established on the basis of the "heavy" industry (HI) and the "Antarard" union. In 1993, the Ministries of Local and Light industries (LI) merged into the Ministry of Light Industry. Furthermore, in 1995, the Ministries of Light Industry, Industry, and "Hayardshinanyut" production association merged into the Ministry of Industry.

In 1988, one third of the economy collapsed after the Spitak earthquake. Although the Soviet Union had launched large-scale construction work in the disaster zone, the funding ceased after 1990. Buildings of most of the enterprises in Gyumri, Vanadzor, Spitak and neighboring villages were destroyed. The main productions of light industry enterprises were located in the above-mentioned cities (textile, garment, knitting; shoe factories and enterprises).

The war and the blockade resulted in blocked roads impeding the import/export of raw materials and finished products. Periodic power outages during the day severely limited the regular operation of the industry. However, not only the economies of Armenia, but also the economies of the former Soviet countries ended up in a deep crisis. Virtually all economic ties were disrupted, enterprises stopped operating, unemployment rose, and the financial system collapsed. Management was limited to operative solutions, and the development of a "long-term" strategy became almost impossible. Under these conditions, a package of reforms was initiated in Armenia, with a special role allocated to the reform of the RA industry.

Privatization and denationalization were seen as a "soothing balm" to solve all these problems; at the same time an environment necessary for the development of a market economy had to be created.

In order to develop the industry regardless of the property type of enterprises, there are, at least theoretically, indispensable conditions, the provision of which will create the necessary environment for business. The development and establishment of the industry in any country is determined by the presence or absence of these particular conditions.

1. Monetary policy required for the development of industry oriented at export promotion

Over the last years of its existence, the Soviet Union had fallen into a deep economic crisis, which further transformed to a political one, resulting in a financial crisis. The Soviet ruble rapidly collapsed, leading to its devaluation. In the autumn of 1993, based on the actual situation, Armenia introduced the Armenian dram, which in the classical sense was neither secured by gold, taking into account the realities (blockade, financial collapse, extreme impoverishment of the population, etc.), nor with any assets. The State had no opportunity to borrow; the first credit resources were provided by the World Bank to contribute to the country's livelihood. The Armenian economy had the task to avoid hyperinflation (the first waves of inflation could already be felt) and consequently the primary task of the Central Bank of Armenia was to ensure the stability of the dram and to curb the inflation. However, there is evidence that this policy of keeping the dram stable over a longer period of time leads to hidden "invisible" inflation, which encourages the increase of share of imports in the country's trade balance. Production and subsequent export

become economically unprofitable under these conditions. It should be noted that the World Bank primarily considers several macroeconomic criteria as a precondition prior to providing its credit resources, including the need to keep the stable dram exchange rate. That condition has not changed so far and all the governments of the Republic of Armenia since 1993 have aimed at meeting this condition.

Organizing the production under these circumstances is reasonably unprofitable.

2. Fiscal policy required for manufacture development aimed at promoting the work of manufacturers, and regulations promoting increase of jobs and produce

We shall keep in mind that due to the above-mentioned various objective conditions, enterprises found themselves in extremely difficult conditions and many were unable to meet their tax and social security liabilities. And the government, having political liabilities (and owning the main enterprises) was trying to tighten the legislation; thus, the industry found itself in the tangle of unpaid tax liabilities and arrears. Naturally, this policy would not contribute to the development of industry, and many enterprises appeared on the verge of bankruptcy. In the meantime, there was an opinion, expressed mainly by the representatives of sectoral governing bodies, who insisted on the reverse approach – not tightening but easing the tax burden, giving enterprises the opportunity to find solutions in this difficult situation. However, the arguments of the representatives of the economic-financial cluster sounded more convincing for the National Assembly and the law became even stricter. Although this decision was later reconsidered, many companies were already in a financial crisis.

3. Fair judiciary

Any investor, before making an investment, must be sure that his investments are protected by law (the ownership type - private or public - doesn't matter here). During the period under consideration, we did not have an established, independent judiciary in Armenia; only few investors relied on the personal patronage of this or that official. Expecting a large flow of investments, especially from small investors in this situation was pure romanticism. Actually, the situation has not changed so far, in fact, it has deteriorated even more.

4. Uninterrupted and efficient work of infrastructures

This situation did not last long, the then government solved the problem of the energy crisis by restarting the Armenian Nuclear Power Plant, which to some extent contributed to the regular operation of other infrastructures. However, during this period, Armenian industry suffered great losses due to unutilized production capacity.

5. Professional staff and sufficient financial resources

Armenia appeared in a state of transition, with all economic ties disrupted not only due to the failure of physical infrastructure, but also to the collapse of the "traditional Soviet planned economy". Meetings with our colleagues from Russia, Belarus, Ukraine, Georgia, Uzbekistan and Turkmenistan, and the efforts to restore the former ties encountered almost insurmountable obstacles. In Armenia, there was the blockade and the war on top of that. In the conditions of this financial collapse, not only did people accustomed to working in the market economy conditions have to be searched for (although it was too early to talk about the market development), but also directors who would be able to solve problems in permanently changing conditions.

Also, there was an opinion according to which the "potential investor" did not want to invest in a state-owned enterprise, mistrusting the State. But if the enterprise were private, then that "potential investor" would have a greater desire to invest. We regularly heard these views from our partners representing international organizations and financial and economic clusters of the government. Thus, a very primitive solution to the problem was found - the enterprise shall be private so that the owner could appoint an *efficient manager* and the rest would receive an *implicit* solution.

But this was only one of the approaches. There was another viewpoint suggesting not hurrying with privatization, but to proceed with a more consistent process, subjected to monitoring. For example, privatization of light industry was supposed to be carried out through a dozen large holdings. According to the plan, shares of the enterprises (25% + 1) were supposed to remain in the hands of the State, and in case of success, the State was compelled to sell them to the members of the same holding some time later. Actually, this was a form of privatization, aimed not at filling the state budget and changing the ownership, but at giving real opportunities to work during the denationalization of enterprises, providing

jobs, budget revenues, and, on the other hand, having a state-controlled situation. Additionally, this form of denationalization was also attractive for investors, as the investor was protected by a large group of owners on the one hand, and the State on the other.

Unfortunately, as a result of the discussions of this proposal, the opinion of the government's financial and economic cluster together with international organizations prevailed over the opinion of the sectoral ministry. This is just a small example of the *ambiguous* approach of the government to the process of privatization of industrial enterprises.

6. Favorable intergovernmental agreements to expand the market (taking advantage of foreign market opportunities) and cooperation with international organizations (WTO, WB, IFC, etc.)

It was obvious that certain industrial enterprises of Armenia were of specific interest to some international corporations. First, those were the corporations that saw the competitive potential of specific Armenian enterprises ("Nairit", lamp factory "Luys" union, "Orbita" factory, etc.), and were not interested in the continuity of their operation at all. Second, international organizations considered Armenia's role in international cooperation as a service-providing country whose industry concept would be limited to the supply of mineral resources by default. Thus, Armenia could join international organizations on that condition. Notably, when negotiations on the GATT membership started (later the World Trade Organization (WTO)), Armenia was offered well-defined customs conditions, reducing or nullifying the existing customs duties. It was a mutual condition, i.e. those making the requirements, were undertaking the same commitments towards us. However, as our technological, marketing, certification, labor productivity, financial and other opportunities were not comparable to the capabilities of our partners; our products became practically uncompetitive. And as a result, the Armenian market remains open so far for our partners, and we are not able to overcome the barriers of their borders. This is mainly due to the fact that their business environment is much more favorable and competitive than ours. This circumstance still continues to hinder the development of industry in Armenia.

2. The first years of independence 1991-1995

The Situation in 1991

Soviet Union enterprises and factories of the heavy industry (HI) sector were centrally governed from Moscow until 1991. The Republic had accumulated a certain research and production (R&P) capacity, particularly in the mechanical engineering sector. We were the third in electrical engineering in the USSR after Russia and Ukraine, and the third in radio-electronics after Russia and Belarus.

However, certain crisis phenomena began to emerge already in the early '80s, in particular:

- Physical and moral wear and tear of the technology of most enterprises (average age 30 years),
- High feedstock and energy consumption, low productivity (production per 1 kWh of electricity was about 10 times lower than international indicators),
- Feedstock largely depending on import,
- Serious problems with quality and international standards.

The situation deteriorated in 1988 after the earthquake, when during 1990-1991 the actual "dual power" in the HI enterprises resulted in a significant waste of working assets, in effect, a first "robbery" blow.

In light industry, after the Spitak earthquake, a lot of equipment was received and stored in the warehouses of various enterprises in Gyumri, but due to the lack of building projects, they were not installed and remained idle. The first loans that Armenia received in 1993 from the WB, were directed to the reconstruction of necessary building conditions of the enterprises of Gyumri, Spitak, Vanadzor, aiming to install that equipment and to solve the employment problems.

Collapse of the Soviet Union in 1991-1992

The following picture prevailed in Armenia during this period:- Abrupt breakdown of economic ties, termination of sales and supply orders,

- Low level of domestic cooperation,
- Closure of some key enterprises starting from 1989 (ANPP shut down in February 1989, following the Spitak earthquake, by the decision of the Soviet government; the Zangezur copper-molybdenum complex, "Nairit", Vanadzor chemical plant, Alaverdi copper-molybdenum plant closed down).
- Collapse of the banking system, loss of funds.

The above was compounded by the following factors:

- Blockade (a complete one from August 1992), lack of communications and sub-structures,
- Energy crises,
- War,
- Hyperinflation - the price of feedstock became more expensive over time than the manufactured product,
- And last but not least, the so-called “subjective” factor - the “government/director” relations.

Armenian industry operated under the following principal conditions:

- Production fell by 52% in 1991,
- Lack of market relations and experience of operating in international markets,
- Limited internal market, and lack of internal cooperation,
- Lack of working capital and its sources, “bartering”.

The main goals of the ministries leading the industry included:

- Stabilization of industrial activity, HR capacity building,
- Program activities (strategy and tactics development),
- Supporting the development of foreign markets and communications,
- Ensuring the “domestic front”, establishment of internal cooperation and military-industrial complex (MIC), promotion of consumption of new products,
- Formulation of development potential for industrial investment including preservation and development of research and development capacity, and technical intellectuals,
- Contribution to the development of future reforms, denationalization and privatization system.

Short-term results in 1992-1995

The developed strategy and the policy implemented since 1992 ensured:

- Certain level of stabilization and maintenance of traditional markets with the CIS countries provided an opportunity to restore ties, mainly with Russia, Ukraine, and the new market of Turkmenistan under the “Gas Against Goods” scheme,
- Entry to new markets of Middle East, Iran, Syria, Egypt, China, and EU.

- Production stabilization during 1993-1994, growth-produce/sales 7-8/20%, intensified sales rates.
- Set of MIC foundations,
- Doubling of the internal cooperation in the structure of the final product, from 20-25% (according to the Soviet index) to 50-55% during the mentioned period,
- Almost 300 new products adopted,
- Zangezur copper-molybdenum complex and Nairit reopened, Vanadzor chemical plant partially reopened.

Product structure of 1993-1994 was as follows:

- Mechanical engineering - 40%
- Diamond/gold processing - 32%
- Chemistry -15%
- Mineral resources -12%
- Forest production -1%

The gross output of light industry and “Industrial Building Materials” industrial association totaled 25% of the entire industrial system. Eighty percent of the gross industrial output was provided by 28 heavy industry and 10 light industry enterprises.

Thus, in 1995, the industry with scarce working assets managed to stabilize its activity at a certain level under the public administration of those times, without having tangible investments. In 1994, the GDP of the Republic was worth 187 billion drams, the budget revenues - 29.4 billion drams (15.7% of the GDP), the industrial output - 93.3 billion drams, with about 60 billion in the heavy and light industries. The industry was operating under the “working capital famine” conditions. Let us bring an example to get the idea: prior to privatization, according to the data of 1994, there was a single “long-term” one-year loan in the industry, amounting to seven million drams. Nevertheless, at that stage, the export of foreign currency alone amounted to USD 150 million (over half of the output), not considering the Turkmen gas bartering deal. Administrative techniques became obsolete, there was a strong need for investment, banks actually did not cooperate with the industry. All enterprises were still state-owned, while according to the RA law “On Enterprises and Entrepreneurship” (adopted by the Supreme Council in 1992), they were actually operating in a privatized mode, having both its pros and cons. The latter were mounting higher and higher, accumulating debts and liabilities.

A number of enterprises had no future at all, without serious product and technological reorganization. There was a strong need for tangible investments. For example, according to 1994 data, re-equipment of light industry enterprises accounted for up to 900-950m US dollars.

There was a particular problem with nine so-called large enterprises of "extensive installation", belonging to the relevant MIC ministries of the USSR. Starting from 1994, even those few orders given already by the RF MIC practically ceased to exist.

Structural changes in the economy had already started, causing systemic inconsistencies to emerge. There was a strong need to start the process of denationalization and privatization in industry, since we were already lagging behind.

3. Further developments

Privatization

Privatization of the industry started in 1995.

Without elaboration on the theoretical pros and cons of privatization in terms of increasing the efficiency of the economy, particularly industry, we will focus on the main features of Armenia's industry and economy, according to the developed strategy and tactical objectives as follows:

- Specific approach developed for the above-mentioned 30-40 enterprises holding 80% share in gross output, aiming at ensuring sustenance and defense capacity of the Republic;
- Ensuring the balance of interests of regional key players and potential partners to increase the country's security;
- Preservation and development of the R&D capacity, i.e., the "brain" of the country;
- Establishment of the private industrial business sector in Armenia;
- Privatization of small and non-functioning enterprises in the shortest time possible.

All this was supposed to be implemented through ensuring accessibility, competition, transparency, and financial stability (debts, working capital, capital investments). Inevitable reduction of jobs at the beginning of the process was supposed to be minimized to the extent possible, the growth was supposed to be ensured during the further development.

Industry needed investment. Thus, who could be the potential investor?

There was no Armenian local private capital yet, the population had actually no financial resources, those accumulated during the Soviet period were devalued and vanished along with the Soviet ruble. The experimental attempt to privatize the first 10 industrial enterprises, involving foreign investors from 1991-1992, did not work in practice simply because there was no “interest”. Putting aside the factors of objective blockade and war, two primary issues had to be resolved: first, the development of the normative field based on international “standards”, and second, the preparation of enterprises and the involvement of potential investors before launching the privatization process.

The government successfully resolved the first issue by thoroughly developing regulatory documents and a legal framework.

The second issue was no less important. Finding and inviting a potential investor in the industry was quite a serious task, taking into account the new economic ties, the creation of a new “image” and advertising, the presentation of R&D potential, participation in exhibitions, etc. These were not simple issues in the case of certain enterprises, mainly considering the geopolitical context and ties of the interests of such leading countries as Russia-Iran, USA-EU, and China.

The government, the heads of diplomatic missions, as well as the directors of particularly large enterprises started to actively address these issues starting from the end of 1993. Armenia had a rather high-quality of management staff, mainly comprised of people committed to their work and country. Naturally, there were exceptions. Thus, effective managers had to be sought to replace the “red directors”. And who was that “effective manager”? And to what extent is this conditioned by the ownership type? In other words, did efficient governance require the property to be private or not owned by the government? Or why can a private owner find a better “effective manager” than a public administration body, AKA the government representative, would do? This was one of the rationales for speeding up the privatization process. In other words, let us privatize the given enterprise as soon as possible and the new owner will already be interested in “finding and appointing” an effective manager who would solve all the problems the enterprise was facing, including:

- the market issue,
- finding new investors,
- the working capital issue,
- the issue of new technologies and capital investments,

- the personnel issue,
- taxes, etc.

The personnel issue has always played a critical role and, especially in the case of Armenia - a slightly politicized one, because that very “director” did not unambiguously accept the ongoing reforms and the reformers. However, we must keep in mind that this was the main nonmaterial resource of our country and it was valued more because of the absence of material ones.

The process and the first results (1994-1996)

The process of denationalization and privatization in Armenia started with the 20% free voucher privatization scheme of state-owned enterprises, where companies which were privatized provided 20% of their shares to employees at no charge. This was a fairly smooth and successful process, except for the above-mentioned strategic enterprises - for which the privatization had not been carried out yet - envisaging a specific privatization program. During this process, structurally reorganized closed joint stock companies with the relevant statute and about 500,000 shareholders and potential investors emerged. The normative basis and preconditions required for further development and capitalization were established. The experience of selling the first 10 enterprises by tender in the spring of 1995 confirmed those assumptions. However, further developments showed some gaps in the legislation, particularly:

- Increasing the authorized capital by shareholders through investments, along with increasing their share, was not provided by law;
- Compilation of privatization lists of enterprises with the involvement of foreign investors, without finding a specific “investor”, excluding the participation of a local investor;
- In case of the unsuccessful sale of large enterprises, ensuring the “conservation’ of those enterprises until a relevant investor is found.

The outlined issues were taken into due consideration, and the government was planning to revise the legislation to introduce changes, but then it resigned in 1996.

It is worth noting that during the reforms two approaches to privatization and denationalization emerged.

Proponents of the first approach believed that there was no need for urgency, that moving at a moderate pace and more thoughtfully was better, with the aim being to maintain the ultimate goal, i.e., to develop the industry. Proponents of this approach mainly included manufacturers, the R&D community, and technocrat bureaucrats.

Devotees of the second approach believed that delaying the process was inexcusable, that the privatization process had to be sped up to the maximum, and carried out pointedly, and at a large scale, prioritizing trade and infrastructure "brands". While actually leaving the privatized enterprise to "the whims of free market relations". The supporters of this approach mainly included representatives of the commercial-banking capital and the financial-economic bodies of the State, with the direct support of the same international structures.

Thus, the Decree NM-747 of the President of the Republic of Armenia of June 10, 1997 "On Introducing Changes in the Structure of the Government of the Republic of Armenia" established the Ministry of Industry and Trade of the Republic of Armenia merging the Ministries of Trade, Services, Tourism, Industry and Economy.

Finally, the RA President's Decrees NN 1063 and 1064 of March 16, 2002 reorganized the RA Ministry of Industry and Trade into the Ministry of Trade and Economic Development of the Republic of Armenia.

Thus, we see that over time the word "industry" had begun to transform and disappear from the name of the state governing body. And this indirectly shows the policy pursued by the country in the industrial sector.

This is an evident feature of the industry management.

Thus and so, from 1994-1996, and further on until 1998, the picture of the main macroeconomic indicators of the first stage of privatization was as follows:

- 1,467 privatized enterprises,
- revenues – AMD 108,028 billion, including AMD 60 billion vouchers redemption,
- debt redemption – AMD 48 billion.

The above-mentioned could be considered as positive.

4. Emerging military industry of newly independent Armenia

Establishment of the military-industrial complex of newly independent Armenia is a separate topic. Unlike the privatization and denationalization

processes, the establishment of Armenia's military industry was done exclusively under the direct participation of the State in order-making, investment and caretaking.

Actually, during the Soviet years, the R&D institutes and enterprises of Armenia, operating especially in the fields of electronics, programming, automatic control devices, and optics, played a significant role in the military-industrial complex (MIC) of the USSR. It should be noted, though, that in terms of final products, only a few companies can be mentioned here. Of course, some enterprises, such as "Hrazdanmash", "Electron", "Armelectromash", "Orbita", "Yerevan Computer Research and Development Institute" and several others, having been integrated in the RF MIC, and holding a monopoly in this regard, still retained their contacts and continued to receive orders. But these orders obviously were not to last long due to the lack of funds of the customer on the one hand, and the efforts of the Russian Federation to resolve issues in its own country, on the other.

In the meantime, in independent Armenia the threat of war was becoming more and more acute, and there was a need to produce new products to satisfy our own needs, atypical to the Military Industry Commission (MIC) of Armenia. First of all, it was about such products as automatic rifles, bullets, anti-tank mines and mine launchers, grenades and grenade launchers, etc.

One of the first decisions of the supreme power of independent Armenia in 1990 was to delegate the coordination tasks of the military industry to the Standing Committee of Defense and Internal Affairs of the Supreme Council, and the relevant body of the government, which were charged with the above-mentioned issues at the state level. In fact, this decision was the onset of the establishment of Armenia's own military-industrial complex.

A decision was made to establish and develop the following five production directions:

- Rifles and light weaponry,
- Bullets and related production,
- Chemistry (explosive and flammable substances),
- Optical devices,
- Radar, electronics, and air defense.

In 1991, the MIC was established under the Prime Minister of the Republic of Armenia, and a Deputy Minister of the newly formed Ministry

of Industry was appointed alongside him to oversee the military-industrial complex. A number of enterprises were selected for inclusion in the military industrial complex to perform state orders.

Gradually, due to persistent and consistent work, a number of specific enterprises were established and appropriate machines and technologies were imported, and successfully introduced. By virtue of Armenian scientists, engineers and workers, the pilot serial product was produced in 1995.

Thus, already in 1997, our MIC was ready to produce self-designed rifles, bullets of different calibers, detonators, mine launchers with locally produced mines, anti-tank mines, grenades and grenade launchers, optical sniper tools, sniper rifles, guns, bulletproof vests, batteries, necessary chemicals, thermal visors, etc. to satisfy the needs of the Armenian army. MIC was able to provide necessary all-weather military and officer uniforms. Repair of tanks and heavy machinery, as well as required electronics (laser sights, etc.) was successfully organized. Modernization of all radar and air defense equipment inherited from the Soviet times was arranged, meanwhile problems of ammunition repair and maintenance were resolved.

Actually, during the first years of independence, a number of enterprises were formed from scratch; dozens of other enterprises were included in the MIC, producing the above-mentioned products.

At the DEFENDORY-1997 international trade show in Greece, Armenia presented several locally-designed types of rifles (automated rifle and specific aiming rifle), thermal vision sight, and different types of bullets. Furthermore, all this ammunition was included in the 1997/98 International Military Equipment Festival catalogue.

5. The political pillar of reforms

In conclusion, specific attention shall be attached to the role of the political pillar and driving force of all the above-mentioned reforms. Were it not for the resolute will of the political ruling force of those times, we are sure that most of the reforms would not have even started. Much has been said and still is often speculated about the “destructive” influence of the force that assumed political responsibility for that time. The impartial and objective researcher, who is not interested in further political speculations of the authorities that have assumed power after

the Armenian National Movement (ANM), will be convinced without much effort in the conceptual and committed approaches of the ANM, the ruling political force of the mentioned period. There were politicians in the parliament and society responsible for all the reforms carried out by the government of those times. And no matter how heavy those responsibilities were - the subsequent events proved that the ANM bore them with dignity and deliberation. The political force itself was trying to analyze everyday problems, and come to relevant conclusions through establishing regulatory and legal bases, it was reacting constructively and critically to the initiatives and claims of the government. From 1999-2000, the role of the Armenian National Movement in "destroying" the industry was discredited at the highest political and state level, in speeches, in the press, even in memoirs, making it a part of State propaganda. This has nothing to do with reality. This was just a primitive way of political manipulation to hide one's own "sins", and the vivid proof of this is the documented statistical data, published by those "accusing authorities". By the way, during the rule of the Armenian National Movement, the whole privatization process was carried out by the "RA State Commission on Privatization and Denationalization", which included representatives of various parties, i.e., the privatization process was controlled by the opposition parties as well. No similar control by the opposition has been ever noted in the following years. The privatization of main enterprises, especially the above-mentioned ones and those representing the mining-raw material complex, were carried out after 1999, i.e., when the ANM was already out of power. It was particularly during that period that the hazardous, unhealthy oligarchical business system developed while its actual authors were successfully occupying the highest state positions, and even more, receiving state awards.

6. Brief observations

After the policy changes of 1997-1998, the process of privatization and denationalization took on a different development strategy.

Based on the already existing regulatory framework, the process of capitalization was somewhat strengthened, changes were introduced to the evaluation mechanism of enterprises subject to privatization and denationalization (debts, losses), and the target orientation increased.

However, transparency, and equal access moved to the background. Instead, the secrecy and grey zone - the subjectivity of decision-making - sharply increased, apparent lobbying emerged, and the notions of “ours and the enemy” flourished.

During the 2000s, the country actually zeroed out the whole machine-building, chemical, textile industries, and the above-mentioned 30-40 basic enterprises. MIC enterprises established in the ‘90s were privatized, went bankrupt, or changed their initial purpose and re-profiled, with the exception of providing some repair services.

And if we are talking today about the industry that is actually non-existent in Armenia, we shall first study the economic policy implemented during the first 20 years of the 21st Century and draw the right conclusions thereof, in order to have a modern, competitive and well-deserved economy, AKA industry.

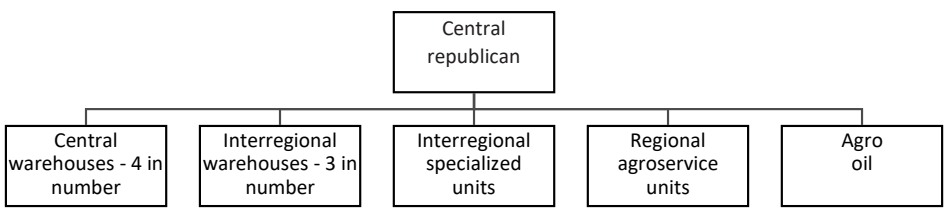
REFORMS IN AGRO SERVICES AND GRAIN SUPPLY SECTOR

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Director of the "Armgrain" Enterprise

1. Reforms in agro services

Though the period of agricultural reforms of the 1990s has been studied and discussed quite widely, the main emphasis in those materials has been criticism. To reveal the truth, let us refer to one of the agricultural reforms that has been covered the least. We mean the reforms in the sphere of agricultural services. Before 1995-96 that field operated as a centralized system.

In Armenia it was represented by two structural entities of republican production units (RPU) – "Armagroservice" and "Fertility". Below is the structure of the "Armagroservice" RPU.



1. The regional units consisted of:
   a) warehouses (agricultural machinery, agricultural tools, spare parts, petroleum products),
   b) repair shops.
2. The warehouses served as centralized suppliers.
3. The interregional specialized units carried out repairs of tractors, equipment and assembly units all over the republic.
4. "Agro oil" supplied fuel and lubricating oils.

Regional units were located in every region of the Republic.

The above-mentioned two RPUs did not possess tillage equipment – such as tractors, ploughs and cultivators. Agricultural machinery for soil cultivation, i.e. tillage equipment, predominantly belonged to State and collective farms (sovkhoz – state farm and kolkhoz – collective farm).

According to the statistical data the agricultural machinery that the RA possessed at the time was as follows:

- Tractors (wheeled and caterpillar) - 13,000,
- Different types of ploughs - 4,000,
- Cultivators - 2,000,
- Grain combines - 1,300,
- Tractor mowers - 1,400.

Pursuant to the Law "On Peasant and Collective Peasant Farms" adopted in January 1991, land privatization was implemented within the period of 1991-1992. The provisions of the law concerning agricultural machinery caused considerable difficulties for the process of denationalization of the machinery, in particular, due to the following provision: two thirds of the votes of the members of the farmstead to be liquidated were needed at the general meeting.

However, the fact to be taken into account is that even on state farms every mechanic considered the equipment or machinery under his disposal and care to be his "own". The mechanics were two or three times fewer in number than the agricultural machinery found on the state farms. While implementing the reform, each of the mechanics took for himself one piece of machinery. As a result, most of the machinery was left unowned. So, in February 1993, the government came up with a decision to set up "Agricultural machinery operation stations" on the basis of "Armagroservice" and "Fertility" companies. The purpose of the decision was to bring together the non-privatized machinery from state and collective farms in those stations. Having in stock that bulk of machinery, as well as some other equipment acquired by regional units, several mobile teams were set up to lend a helping hand in their agricultural works to those peasant farmsteads that came into being after the land privatization.

Taking into account the facts that:

a) the topography of the Republic of Armenia and its climatic conditions make it possible to use the farm machinery of the mountainous regions in the plain regions starting from early Spring,

b) the farmsteads of the Ararat Valley and other plain regions, starting from Spring of 1992 had replaced most of the perennials with annual crops (grapes and fruit trees were replaced by wheat),

c) the tractors and other agricultural equipment were not adapted to service annual crop fields,

The new mobile teams took up the job of land cultivation and other agricultural works in those regions.

In autumn of 1994 it was decided to privatize the "Armagroservice" and "Fertility" RPUs. For the "Armagroservice" the holding privatization pattern was chosen. It meant that 34% of the shares of all the enterprises, which were part of the company, would remain as State property, while the rest of the shares were to be sold to the staff of those enterprises. However, 20% gratuitous privatization by law referred only to regional units. The staff of the warehouses and interregional enterprises were deprived of those privileges. The management of the state shares was the responsibility of the head office (the central apparatus).

The goal of this mode of privatization was to choose the best possible pattern of organizing the proportional and efficient use of the scarce resources of the existing agricultural machinery and equipment, coordinating maintenance and repair works as well as the provision of spare parts and fuel.

Certainly, direct privatization, without establishing a holding, was also a possible solution. But at that point that was probably the best choice, as no private enterprises that would have been able to perform the above-mentioned work had been formed yet. The mechanics who had acquired the agricultural machinery and the village households had no other place to refer to but the "Agroservice" in order to get spare parts or to make repairs. Starting from 1997 to 1998, the staff of the enterprises which were part of the "Armagroservice" holding got the right to buy back the 34% of the state shares (which they did in no time), and became private companies. Many of them did not survive the competition, which was already underway in the market, and were gradually liquidated due to objective and subjective difficulties.

The agricultural reform limitations in this sphere were as follows:

1. The privatization of agricultural machinery, equipment and its services was carried out two years after the privatization of land and the rural complex. The whole system was state-owned, while the land was already private property. This fact had a negative impact on the overall results of the sector.
2. Horizontal ties between the enterprises of the holding were rather weak.
3. Very little publicity was given to the completed works and the works to be undertaken.

2. Reforms in the grain supply sector

Before 1995, grain import to the RA was provided by the Ministry of Food Procurement, which, after the elections of the National Assembly in 1995, was combined with the RA Ministry of Agriculture. To organize grain imports it was decided to establish the "Hayhatsahatik" ("Armgrain") state enterprise, which incorporated, in the capacity of subsidiaries, all the functioning flour mills of the RA, including their storage facilities. In those years around 700 tons of flour was being produced daily. Grain import was executed solely by using state funds, which were predominantly loans from the US and EU. The following pattern was implemented: import – distribution to flour mills – distribution to bread factories. Private enterprises were not involved in the process of grain import or flour production. With the creation of the "Armgrain" enterprise the task was set to:

1. relieve the state budget from the responsibility of grain purchase,
2. set a stage for the emergence of private flour mill enterprises and the provision of stock for their work.

From March-April of 1996 the first 10,000 tons of wheat were already imported, having been acquired with non-budgetary means – through commercial loans from banks. The next similar batch of 25,000 tons was received from June-July of the same year.

It was necessary to find solutions to handle the second problem. Intensive work was carried out in this direction in cooperation with the US Department of Agriculture, the US Embassy and the TACIS project. The solution found was to establish a wheat lot auction centre. After having prepared all the normative documents and having organized the training of the staff, the first auction was held in April 1997, which was open to

everyone who had expressed a wish to participate. The subsidiaries of “Armgrain” and the state flour mills took part in the auction on the same footing as everyone. The auctions were held once a week, and the lots were from two to 1,000 tons.

After the auctions which were held over the next 5-6 months, more than 20 private flour mills emerged in the regions of RA. By the end of 1998 the number of small and medium flour mill enterprises passed 80, which, in territorial terms, were located almost in every region. This can be interpreted as the termination of state monopoly in the field of flour production.

It is noteworthy that the frequent organization of auctions through small size lots enabled the small and medium enterprises to substantially save the working capital, which is essential for the enterprises of this sector.

REFORMS IN THE ARMENIAN HEALTHCARE SYSTEM IN THE 1990s



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Immediately after the Declaration of Independence and despite facing critical challenges, the authorities of our newly independent state set out to develop socio-economic reforms in almost all spheres of the country.

Not all the transformations developed and implemented during those years were perceived by society as reforms. That was understandable, as transition from the fossilized political, economic, and social systems of the Soviet era to new relations was viewed as inevitable.

The heading of the approved public healthcare reform and development program in Armenia in this regard is noteworthy:

No matter how bitter the truth is, it is the TRUTH.
Medication is also bitter, but it cures the disease.

Here we present the process of healthcare reforms that began in the early ‘90s and lasted until the beginning of 1998, when the political team in power during that time resigned.

The Armenian healthcare system, as part of that of the Soviet Union, had several advantages, but also major disadvantages. Among the main shortcomings of the previous system were the over centralized management of the system, and particularly, the public funding (subsidy), limitations of healthcare issues, including medical aid, excessive number of medical institutions and medical staff, and their disproportionate distribution. This system, seemingly socially-orientated, was more of a declarative character; having created an illusion of “free” health care, it had, however, limited the rights of people, as well as the development potential of the system. An individual was deprived of the right to ask for additional medical assistance in terms of quality or quantity, even if the expenses were covered from financial sources other than the state

budget. All these had severely distorted the relations between the public and the healthcare sector, revealed in the most unacceptable ways.

The need for healthcare reforms had become apparent. This was not just due to the number of manifold issues hindering activity within the sector which were no longer to be tolerated, but also because the liberalization of economic and public relations had to be completed. Once started in one sphere, liberalization would certainly cover other spheres, including health care.

Implementation of liberal reforms required legislative regulations, as well as fulfillment of obligations envisaged by membership in international organizations. The Supreme Council of Armenia and the first session of the RA National Assembly first convocation played a key role in this regard, as they developed the legislative regulations necessary for implementation of the reforms.

It was essential to take into account the real potential of the country, the peculiarities of the public mentality, as well as view the end result of the reforms as a basis for improving public welfare. It was not by chance that the Constitution of the Republic of Armenia, adopted in 1995, defined the right to health that an individual and a citizen should have, as follows:

"Article 34. Everyone has the right to healthcare. Regulations for providing medical and healthcare services are defined by law. The State implements programs aimed at the population's health protection, (and) promotes the development of physical culture and sports".

This phrasing made it possible not to exclude the involvement of other financial sources for medical care, and through insurance systems, in particular. Nonetheless, the phrasing "regulations for providing medical care and healthcare services are defined by law" enabled provision of free medical care for specific diseases and certain sections of the population.

The first legislative regulations of healthcare activities were the RA Law "On ensuring sanitary and epidemiologic safety of the population of the Republic of Armenia" adopted by the Supreme Council of the Republic of Armenia in November 1992, and the RA Law "On medical care and servicing of the population" adopted by the RA National Assembly in March 1996.

It should be noted that the above laws, with some amendments and additions, are still in force and are considered to be the basic legal documents of the healthcare sector.

In 1992 Armenia became a member of the World Health Organization (WHO). With the accession to the WTO, the WTO Constitution entered into force for the Republic of Armenia; the provisions of the Constitution have been preserved in all documents related to the reforms.

In 1997, the RA Ministry of Health developed and approved the "Armenia's Healthcare Reform and Development Program", which was based on summaries of a great number of studies, program drafts, practices of various countries, annual national reports on Armenia's Human Resources Development of the United Nations Development Program, and the recommendations of the World Bank consultants. The program was presented to the RA Government and was highly valued by it.

Looking back at the Armenian healthcare sector activity for more than 20 years, we can state that most of the provisions are still fundamental to the program, although they were revised to some extent and, naturally, developed.

Due to causes typical of the transition period, at the beginning of the '90s the RA healthcare sector found itself in a difficult situation. This in turn affected the quantity and, in some cases, the quality of medical care, and had a direct impact on the relationships between the healthcare sector and society.

However, the implementation of the reforms was conditioned not only by - and due to - the existing hardships, but by the awareness of the need for further development of the sector.

As a main goal of the program, improvement of the health of the population was proclaimed in the "Ljubljana Charter of Reforming Health Care" adopted by 49 European countries in 1996.

To achieve the above-mentioned goals, the healthcare sector had to deal with the following issues:

- Health care;
- Disease prevention;
- Early detection of diseases;
- Treatment of diseases;
- Health recovery.

To resolve these problems, the healthcare sector had to be based on the following principles:

- Ensuring the right to health care;
- Ensuring the right to choose the provider of medical care;

- Multiplicity of medical care providers' ownership;
- Ensuring competition between medical care and service providers;
- Multiplicity of financial sources;
- Community participation in healthcare problem solving;
- Service quality assurance;
- Medical care affordability.

The main directions of healthcare reforms were considered:

- Sector management;
- Network structure,
- Healthcare financing;
- Medical education.

The recommended program of governmental reforms envisaged two directions: decentralization, and centralization of a number of functions.

Decentralization implied:

- Delegation of certain powers from top to bottom, granting them to territorial and local government bodies;
- Granting public legal entity status to providers of medical care and services, permitting the entities to conduct independent economic activities;
- Private sector development through privatization and denationalization;

Decentralization of the sector management was designed to ensure independence and flexibility in activities aimed at regulation of daily problems.

Studies of international best practice, however, showed that unrestricted decentralization of governance is most likely to create chaos in the healthcare sector. In order to make the most of the advantages of decentralization and exclude the possible negative consequences, it was essential to maintain a centralized management of four key functions:

- Outlining a national health policy;
- Gathering information and approving national programs;
- Setting and control of state standards;
- Human resource planning.

Centralized management of the above highlighted functions would ensure; the identification of national healthcare problems, prevention of epidemics, decline in widespread diseases, and quality assurance of the implemented activities among other positive outcomes.

The program defined the functions of the administrative bodies at the national, regional and community levels of governance, on account of decentralization of healthcare sector management.

In 1995 decentralization was introduced into the healthcare sector. As a result, 377 independent medical organizations were set up on the basis of about 40 regional medical centers, which, in accordance with the legislation in force, were later transformed into state closed joint-stock companies, and some, into state/regional non-commercial organizations. As a result, the medical organizations gained more sovereignty through capacity building for certain services and opportunities for resource management. Subsequently, many medical organizations that were inefficient or had significant capacities were reprofiled or optimized. Delivery of some services was limited. Thus, out of 134 state healthcare institutions providing inpatient treatment, 46 medical centers were formed in the districts, and seven in Yerevan.

Competition in healthcare and the anticipated increase in effectiveness and quality as a result, would be incomplete without the private sector. Development of the latter was essential in terms of attracting private sector investment into the healthcare system. No adequate economic prerequisites for independent development of the private sector were in place. Therefore, it was formed through privatization and denationalization of the state health institutions.

It was important for the privatization process to be well planned and carried out stage-by-stage, in order to avoid erratic developments. A special approach was required for the medical facilities that were central to public health policy.

In the course of selection of the institutions to be privatized, priority was given to:

- Institutions, the privatization of which would not adversely affect the health of the population, even short term;
- Some of the institutions delivering similar services, to ensure alternative services to users, as well as competitiveness as a result;
- Underloaded institutions and those working inefficiently, reprofiling of which would require significant investments.

The privatization of the pharmaceutical network was fulfilled very swiftly. Due to the inevitable liberalization, at its early stage the drug prices increased, but concurrently with the privatization of pharmacies and set-up of private entities, stability and a decline in prices was observed.

Along with a large-scale privatization of dental clinics, private medical facilities were established, which started to develop rapidly.

Equal rights and responsibilities were set for those establishments, which had maintained their public status, were privatized, and were delivering newly introduced medical care.

In particular, both public and private medical institutions could apply for a public healthcare order by exercising equal rights.

Financial revenues of the privatized medical institutions could be generated both through paid and state-funded services.

Subsequently, healthcare institutions' ownership multiformity was ensured. As a result, as of 2019, 29% of the operating medical institutions were private, covering 32% of bed fund and 35% of medical staff correspondingly. Private medical facilities provide around 40% of state-funded inpatient care services and more than 50% of healthcare revenues.

Effective management of the healthcare sector required quality assurance of medical care. State licensing for implementation of medical and pharmaceutical activities was seen as an essential and on-going process. In accordance with the RA Government's decision, a licensing center was established under the Ministry of Health, through which state licensing of medical and pharmaceutical activities was carried out.

The decision regarding licensing covered both legal entities and individual healthcare professionals providing medical services. In cases licensing an individual's activity, a term of three to five years was set; after its expiration the individual had to take an exam and apply for a new license. This approach was geared towards promoting the healthcare providers' ongoing professional qualification. It also partially contributed to the prevention of the sector overstaffing in a natural way.

In the early 1990s, there was a surplus of 42.2 doctors and 107 nurses per 10,000 inhabitants in Armenia. This was approximately the ratio in other CIS countries.

It is noteworthy that in countries with developed economies, this ratio was essentially low in those years, while the healthcare indicators were high.

For instance, per 10,000 inhabitants:

	Med. doctor	Nurse
Great Britain	17.97	85.97
Denmark	27.04	90.43
Sweden	28.72	101.00
Germany	31.23	102.90
France	33.04	71.14
Austria	35.62	52.10

Data for medical doctors is provided for 1996, whereas data for nurses is provided for 1996, 2000[1].

It is common knowledge that the surplus of healthcare providers has a direct impact on the average unit price of medical care; it raises the price and results in an artificial increase in the scale of healthcare activities. When this surplus occurs, the medical care providers are underloaded; this causes the delivery of irrelevant services which could be avoided, if an optimal doctor to patient ratio were in place.

According to the healthcare policy developed to increase the effectiveness of medical activities, the doctor (and nurse) to population ratio would be increasingly regulated. The above-mentioned practice of a physical entity licensing aimed to solve this problem.

The same way, much importance was attached to the state licensing and accreditation of medical educational institutions, regardless of the type of their ownership. This would ensure:

- Right to provide education (in relevant specializations);
- Capacity (number of students);
- Diploma competence

It was important to carry out the licensing of medical institutions by taking into account the condition of the building, classrooms, the library, the teaching staff, as well as have the authorization of the Ministry of Health on the educational resources required for practical education.

[1] https://www.who.int/data/gho/data/indicators/indicator-details/GHO/medical-doctors-(per-10-000-population)
https://www.who.int/data/gho/data/indicators/indicator-details/GHO/nursing-and-midwifery-personnel-(per-10-000-population)

For adequate education, it was necessary to have the required base for providing educational programs, chairs of theoretical and clinical disciplines in particular. While having their own, adequately equipped theoretical chairs was mandatory for these institutions, clinical facilities could belong to the university or maintain contract-based relations with it.

Unfortunately, later on the healthcare authorities were unable to ensure the transparency of the individual licensing process, or to eliminate corruption risks; they lacked the necessary political will to resist the system's conservatism against reforms, and subsequently abolished the individual licensing requirement for healthcare professionals. This obstructed optimization of the number of medical service providers with the above-stated negative consequences. Non-fulfillment of the state licensing requirements by medical educational institutions contributed to that too. A number of private companies received state licenses, not having even basic resources for training healthcare professionals. By giving diplomas to people of dubious qualification and enabling them to work in the healthcare sector, they contributed to the formation of an incompetent medical community.

To provide relevant sector management, great importance was attached to the alignment of the centripetal collection of information with up-to-date requirements. To support this initiative, an information analysis center was set up, which was in charge of gathering statistics and other information from medical entities delivering medical services (regardless of the type of their ownership or location).

The structure of the sector underwent reformation and amendments. This resulted in provision of health services through the three-tier system of medical care, depending on the complexity of the healthcare problems, the goals set, the resources involved, and the occurrence of problem scale.

The first level involved primary medical care. Large-scale activities including health care, disease prevention, disease detection at an early stage, treatment, and rehabilitation had to be performed at that level. The service provided was defined by the level of knowledge and skills required from the service providers, as well as the use of the scarce material and technological resources. As a rule, it had to be carried out on an outpatient basis. The entire population was to make use of these services, and with little financial investment, it was possible to ensure effective health protection of the population.

The second level involved secondary medical care. This level was to include widespread, relatively non-complicated, but professional medical assistance, including obstetrics. To make it accessible to the population, it was necessary to have uniformly distributed medical units throughout the country. Although only part of the population needed secondary care, it required significant financial investment.

The third level involved tertiary medical care. It was to be carried out by highly qualified professionals of narrow specialization in medical establishments well-equipped with top-notch technologies and facilities, such as mono and multi-profile hospitals and clinical centers of narrow specialization. This level was to provide medical care to a small number of patients and required significant amounts of financial resources.

Based on the ratio of scale of activity, output and value secured as a result of the three levels, the first level was prioritized, becoming the main target of the reforms.

The primary care sector had serious organizational shortcomings, such as:

- Restriction of the right to medical care and low-quality service of the implemented care;
- Inactive role of district therapists who, like “dispatchers”, tended to direct patients to doctors with narrow specialization;
- Not viewing a family as one unit in terms of health care, which resulted in a non-coordination between the therapeutic, pediatric, and obstetric services;
- Frequent duplication of clinical and hospital specialists’ services;
- Non-justified tendency to direct patients to the hospital;
- Lack of financial incentives for service promotion.

The above highlighted deficiencies were to be addressed at the primary level through the introduction and development of a primary healthcare (PHC) system. The PHC system is the first medical facility which a person with a health problem deals with. It was here that one could improve the health of an individual, a family or the entire population by carrying out preventive, curative and rehabilitation activities on a limited scale (due to the state and community resources) by using simple and non-expensive technologies.

This service was to be provided by a family doctor, a general pediatrician, and a team of nurses. The family doctor team was to mainly deal with health care and keeping a person healthy, while specialists at

other levels and hospitals would be in charge of treatment of patients. Such a relationship would inevitably give rise to a healthy competition, enhanced through different pay scales. As a result, various levels of health care would be optimized, and in consequence, the quality and effectiveness of the services provided would rise.

For organization of the PHC activities, the lively involvement of the community was required. This implied not only consumption of the services by the members of the community, but also their active participation in planning, oversight of such services and the financial aspects thereof.

The Ministry of Health developed a strategy for introduction of the family doctor program. An educational program, including postgraduate education, training of the district therapists, pediatricians, etc., was developed to support the establishment of the family doctor institute.

In 1997, chairs of family medicine were established at the Yerevan State Medical University, National Institute of Health, and Basic Medical College.

About 700 family doctors and more than 1,800 family nurses were educated or trained within the framework of the above-stated educational program. As a result, about 85% of the country's urban population and close to 100% of the rural population receive medical services from family physicians and nurses. Out of approximately 256 rural polyclinics, 173 were fully renovated or refurbished, and provided with standard sets of medical facilities, furniture, and accessories under a World Bank loan program. Thanks to this, high quality PHC medical services are currently available to more than 630,000 rural residents.

Financing reforms

The healthcare sector financing reforms involved:

- Introduction of a variety of funding sources;
- Changes in remuneration of healthcare providers;
- Regulation of state programs financing.

Introduction of a variety and the involvement of sources of funding was due to the non-feasibility of meeting the growing demand for medical services with state funds only.

As stipulated by law, everyone has the right to receive free medical care and services within the framework of targeted healthcare programs guaranteed by the State, as well as the right to receive medical care

and services at the expense of medical insurance benefits, personal payments, and other sources provided by the legislation of the Republic of Armenia.

Thus, sources of financing for implementation of medical care and services in the Republic of Armenia were as follows:

- state budget;
- community budgets;
- insurance allocations;
- direct payments,
- other sources not prohibited by law.

According to rough estimates, in 1995 the total expenditures in the healthcare sector in Armenia were about AMD 41 billion. Approximately 25% of these funds, or AMD 10.1 billion, were received from the state budget. According to the same estimates, most of the remainder of the expenditures were made by residents through direct payments. The volume of the state funding for health care, still unsatisfactory, began to grow. In 1997 the budget earmarked AMD 15.7 billion.

In November 1994, the government submitted to the Supreme Council a draft law on the procedure of financing the population's health insurance and healthcare systems in the Republic of Armenia, within which legislative regulations for financing the healthcare sector and introduction of compulsory health insurance were proposed. Based on the discussions of the draft law in the corresponding committee of the Supreme Council, it was recommended that these regulations should be incorporated in the complex solutions of the healthcare sector reforms.

The targeted healthcare programs continued to be funded from the state budget, avoiding the introduction of a new type of special health tax through compulsory health insurance. The latter was due to the government's desire to have a consolidated budget and avoid the negative impact of introducing a new tax on the country's economic situation. However, the issue was not removed from the agenda and could be considered along with the overall economic situation improvement.

Directions of expenditures made from state budget allocations were approved as annual healthcare state project funding.

For this purpose, the government adopted a decision, according to which the 1997 state order of the RA healthcare system was to be implemented in accordance with the 1997 targeted healthcare projects, through purchases made at the expense of the 1997 state budget of the RA.

This thoroughly elaborated decision, along with its numerous annexes, approved, in particular, the special state healthcare programs, types, volume and cost of medical care and services. In addition it covered reports submitted to order placing bodies on the amount of medical care provided within the state order; on the implemented activities, the order of payment, the list of special groups of population entitled to receive inpatient medical care and services within the framework of the state order, the volume of outpatient assistance and services provided within the framework of the state order and the order of payment, etc.

State healthcare special programs have been formed based on two key principles:

a) priority of primary health care issues;

b) provision of medical care and services for socially vulnerable groups.

The remuneration scheme for healthcare providers required a review and approval of both the basis and the form of remuneration.

The remuneration was based on the end result of the healthcare providers' activities, which, in the case of family doctors and general practitioner pediatricians was health protection, and in case of specialized medical care providers - disease treatment.

In order to ensure regulation of state program financing, the foundation of a new system through organizational and structural changes of the current system of state healthcare financing was considered. It would allow to:

- separate the functions of medical care provision and payment settlements for it, thus introducing clarification in client-medical care provider relationship in the sphere of state order;
- clarify the state responsibilities in medical care provision by defining the basic health services package included in the state order, with an ongoing improvement of the definitive methodology;
- improve mechanisms of state order placement, its monitoring and oversight through creation of a new healthcare and financial information systems and revision of current reporting forms.

The set-up of a separate body for procurement of medical services - the State Agency for Healthcare (SAH), was seen as essential for the solution of the above-stated problems.

The foundation of the Agency was considered central to the process of the state program funding regulations.

In order to ensure separation of the functions of medical care provision and its payment settlements, as well as clarification of state responsibilities in client-medical care provider relationship in the sphere of state order, the SAH was formed and began its operation in 1998 as a non-departmental unit under the government. Subdivisions of auditing and information analysis started functioning within the structure of the SAH with the involvement of economists and medical experts.

In fact, the agency became a mediator between the Treasury office functioning under the Ministry of Finance, and the Ministry of Health. The first - as a client of medical care implemented at the expense of the state funds, and the second - as a health services provider.

Within the state targeted healthcare programs, the SAH implemented the following functions:

- signing contracts with medical care providers;
- payment settlements with medical care providers;
- ongoing control over quality and scale of the provided services.

Development of the healthcare general policy was left within the competence of the government.

In conclusion of contracts with SAH, the non-state healthcare providers enjoyed equal rights along with the state-owned enterprises.

The SAH had no obligation to conclude contracts with all healthcare providers. Certain criteria were developed and introduced for selection of medical institutions.

Under the Healthcare Financing Reform Program, the State Agency for Healthcare is operating up to the present day.

Unfortunately, in 2002, following a cosmetic change in the name of the agency, to become “State Health Agency” (SHA), it ceased to be a non-departmental unit and became part of the Ministry of Health structure. There was no rational explanation to this, other than administrative interests, and this marred the key idea of its foundation - to separate the functions of healthcare providers from its payment settlements, thus introducing clarification in client-medical care provider relationship in the sphere of state order.

The World Bank’s long-term loan granted to Armenia for implementation of the reform program in two main areas – healthcare financing and primary healthcare development, was a rewarding and tangible outcome of the sector reforms in the 1990s.

In 1997, a Development Loan Agreement (health financing and primary healthcare development plan) was signed between the International Development Association and the Republic of Armenia, within which a loan of SDR 7,200,000 (about USD 10 million as of that date) was provided for a total of 35 years with a grace period of 10 years.

It consisted of two parts:

1. Health Financing Development Program, with its following implementation sub-programs:
   - establishing a State Health Agency (SHA);
   - improving methodology for developing of healthcare basic services package within the state order;
   - improving payment mechanisms for healthcare providers;
   - improving healthcare financial information systems.
2. Primary Healthcare (PHC) Development Program, with its implementation sub-programs:
   - training of PHC providers;
   - PHC development sub-program;
   - PHC guideline development sub-program.

The program introduced the content of each chapter and that of the sub-programs required for their implementation, as well as the goals, main benchmarks, the time and order of their implementation, control over the whole process, etc.

It is noteworthy that the program was fully developed by the specialists of the Ministry of Health of Armenia with the support of the World Bank experts.

The loan program started to be partially implemented from autumn 1998 and was completed in the autumn of 2004.

The program outcome was highly appraised by the World Bank in its final report[2] on implementation of the "Health Financing and Primary Healthcare Development Program" published on June 23, 2004.

As for the current situation, we can state that in 2020 the allocation of 113.7 billion AMD from the state budget, which is only 1.6% of the country's gross domestic product (GDP), is not sufficient for the solution of the problems in healthcare (also due to recent epidemics), and the development of the sector, in particular. Therefore, it is imperative to introduce new sources of funding, and insurance allocations, in particular,

[2] http://documents.worldbank.org/curated/en/846831468769224010/Armenia-Health-Financing-and-Primary-Health-Care-Development-Project

in order to make the healthcare sector more effective. This will help speed up the implementation of a health insurance system comprehensively.

In conclusion, it should be noted that during more than 20 years since the introduction of the above-described reform programs, with some not significant modifications in the basic program provisions, the healthcare sector keeps developing; nonetheless, it still needs to be supported by the State.

LIBERAL REFORMS OF THE RA EDUCATION SYSTEM DURING THE FIRST YEARS OF INDEPENDENCE



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Education reforms and the Declaration of Independence

Adopted on August 23, 1990, the RA Declaration of Independence stated through its 10th clause:

"The Republic of Armenia guarantees the use of Armenian as the state language in all spheres of the Republic's life; the Republic creates its own system of education and of scientific and cultural development."[1]

Thus, the fields of education, science and culture were recognized as essential components of gaining independence and of exceptional importance for the success of the whole independence process.

Naturally, the ideological basis of the system to be built should be in line with the spirit of the Declaration and the commitment to establish Armenia as an independent democratic and legal state as a result of the independence referendum planned to be held a year later.

It was necessary to evaluate the scientific-educational system inherited from the Soviet state, and consequently - to start building a new system in line with democratic values and liberal economical market relations. As in the case of the reforms to be implemented in all other spheres, this problem contained at least two interrelated layers of solution – deeply ideological or value-based, and implementational/ professional or political (in terms of sectoral policy). It was evident that to ensure a decisive breakthrough in the system, the newly created state that was facing unprecedented challenges – military aggression, disaster zone, economic blockade – should, first of all, implement the changes connected with the value component, namely liberating the system, and

[1] https://www.gov.am/am/independence/

unleashing all the possibilities of the professional potential involved in it to ensure the subsequent steady and successful course of legal and methodological regulations.

It is not difficult to understand that the solution of the second problem should have taken a matter of years, along with the establishment of new state institutions (below, we will see a clear outline of the obstacles that appeared in its way, especially given the ideological regress in the decades following the coup of 1998 and the return to the former totalitarian government models in the education system as well as in all the other spheres). The State's primary task was to make a decisive transition from the vertical system of planned management to the autonomy of scientific and educational institutions, avoiding social shocks as much as possible. It was necessary to adapt the new system to the new realities, to the requirements of the emerging free labor market, to reconstruct the content of the curricula, aiming at training citizens and specialists of the new society.

The following important steps were taken in that direction:

1. In a short period of time the dichotomy that had reached a dangerous level in schools with Armenian and Russian language teaching was eliminated by forming a unified public education system whereby teaching was taking place in the respective state language in line with the RA Law "On Language," as adopted in 1993.

It is difficult to overstate the significance of this step in establishing a new independent state, as it was the only guarantee for the creation of a dignified citizen of a sovereign country, brought up with democratic values. As it turned out decades later, the generation brought up with those values resolutely resisted the attempts of encroachments on this exceptional achievement of the general education system within the framework of the "We are against the reopening of foreign language schools" civil movement.

2. On June 3, 1992, the Supreme Council of the Republic of Armenia adopted a decision "On the Regulation of the Institutions of the Higher Education and Science System of the Republic of Armenia."[2] Based on this decision, the Government approved the Codes of higher educational institutions, which defined the

[2] http://www.irtek.am/views/act.aspx?aid=2094

fundamental freedoms of the universities and the main principles of autonomous activity.

These formed a serious basis for initiating substantive structural reforms in universities - reforms that radically changed the context of higher education in Armenia and gave a strong impetus to the further development of the system, even in the post-2000s' relapse period.

Education reforms: systemic changes

In August 1992, the RA President Levon Ter-Petrossian signed the Decree "On Yerevan State University", highlighting once again that "a radical reform of the educational, scientific and cultural systems of the Republic, the creation of necessary preconditions for the use of the people's intellectual, practical, moral capacities and skills has become an issue on the agenda to solve the vital problems faced by the Republic of Armenia and ensure its further sustainable progress". The President's Decree defined that the "Yerevan State University is an autonomous state higher education, scientific and cultural institution in the system of higher education of the Republic of Armenia, endowed with the rights of a legal entity, which operates under the laws adopted in line with the legislation of the Republic of Armenia."[3]

The founding of the American University in Armenia in 1991 had significant importance in terms of institutional reforms. It is symbolic that the university opened its doors in Armenia on September 21, on the day of the Armenia's Referendum for Independence.[4]

In addition to bringing the organizational forms and technologies of higher education to the Armenian higher education system in line with the requirements of the time, the university made a significant contribution to the transition to a two-tier education system. The university was implementing master's degree programs for the first time in Armenian history.

Generations were formed in the university's educational environment, which later played a decisive role in the establishment of Armenian civil society, free university spirit, democratic traditions, and critical thinking.

However, the main center of higher education reform, a real platform for developing its own new model of higher education defined by the

[3] http://www.ysu.am/files/quality/kv1.pdf
[4] https://aua.am/history-of-the-university/

Declaration of Independence, while at the same time staying in line with global scientific and educational developments, became the State Engineering University of Armenia (now – the National Polytechnic University of Armenia). This is where the radical reforms in university education began. It is noteworthy that the rector of the Engineering University, Yuri Sargsyan, who took the lead in university reforms in the country, was also behind the founding of the newly opened American University.

From 1992, the university began to implement two-tier educational programs, the first postgraduate school was established, and a shift was made to a credit system. Even seven years before the signing of the Bologna Agreement, the first step was taken to move to the modern model of higher education in all universities, to make the Armenian higher education system recognizable and visible. Educational programs were liberalized and the possibilities of choosing courses were expanded, thus laying the first foundations for student-centered education.

From 1995, Yerevan State University, and in 1998, the State Agrarian University of Armenia shifted to the two-tier bachelor-master system.

Necessary steps were taken to expand the autonomy of universities. For example, the Code of the Engineering University as approved by the RA Government on November 2, 1992, read that "The University is endowed by autonomy as defined by the RA legislation and this Code, shall choose the ways to reach the set goals and the most effective means to use (one's) own potential." Incidentally, the Code was in force until 2002, when the educational system gradually was re-centralized, and superficial structural transformations replaced the fundamental reforms.

Clause 11 of the Code stipulated that the university, among other functions, in particular, has the right to:

- define the conditions of admission in accordance with the procedure established by the Government of the Republic of Armenia for access to state higher education institutions;
- award degrees, diplomas, (and) credentials established in Armenia and to withdraw them in the manner prescribed by the legislation of the Republic of Armenia;
- accept graduates who have received the appropriate degree in other educational institutions and transfer students from other universities;

- establish and confer honorable titles, prizes and nominal scholarships;
- create educational, scientific and production complexes, establish contractual relations and associations with other organizations;
- determine the organizational structure of the university, to create, reconstruct and dissolve subdivisions;
- create the structure and staff lists of the university within the framework of general funding, establish and eliminate academic, scientific and other positions, define terms and amounts for remuneration;
- publish scientific works, textbooks, manuals, periodicals, scientific literature, information materials and newspapers;
- create educational, research, benevolent and other funds and make donations.[5]

During those years, student councils were formed and became active. They played an active role in creating an atmosphere of participatory governance in educational institutions, a clash of opinions, and a liberal environment specific to the university circumstances. Unlike the next two decades, when due to the resurgence of the old tradition the student structures turned into a "springboard" for their "bureaucratic" career advancement, the student councils of the 1990s were completely independent of any political influence. They operated freely outside of the control of the university administration.

The students' movement of those years had a serious impact on the realization of academic freedoms among the faculty staff by dismantling the traditionally rigid hierarchical system of university administration and their contribution to the modernization of the educational system. The academic councils of the universities became free platforms for expressing opinions on academic-socio-political issues, analytical and critical speech. Regrettably, during the following decades, this function also decreased, and those principal mediums of academic freedom and academic self-government also gradually stagnated.

[5] https://www.arlis.am/documentview.aspx?docid=45514

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The creation of the private education sector should be examined separately. Along with the liberalization of the system, the number of private universities in the country increased, which also ensured the solution to the problem of general compliance with the global tendencies of the generalization of higher education. Private educational institutions had to solve the problem of competition within the system by being more flexible, and in the case of universities, by responding more quickly to the demands of the labor market.

The solution to this important issue took different forms at different levels of the education system.

The private schools created in the general education system, such as Quantum College, Anania Shirakatsi Lyceum, provided a free, competitive environment; the general educational atmosphere created by their use of modern teaching technologies was a serious impetus for the development of state public institutions in general education, ensuring further sustainable development. However, the process was different at the higher education level.

Dozens of private institutions implementing higher education programs emerged in Armenia on the first wave of the system liberalization. The vast majority could not attract sufficient resources to compete with the state universities, when the latter were given the opportunity of providing paid education. One of the reasons for this was the misunderstanding of the business approaches and mechanisms in the education sphere and the primitive perception of organizing education as an ordinary production enterprise. (Hence the popular name of "cooperative universities" circulated during those years, that derived from the policy of granting certain economic freedoms to the population, allowing small private proprietorship in the framework of "Perestroika," that was happening during the last years of the Soviet Union's existence.) As a result, the newly established private universities simply became additional structures attached to the state universities, which mainly solved a social problem, providing extra income for the lecturers of those universities. Only a few private universities were able to form a more-or-less serious material-technical and scientific-educational basis in the future to remain as a factor in the system. However, later, due to the tightening of state policy and non-stimulated competition, until

now it has not been possible to form a robust private sector in higher education.

In fact, in those years the only private university that could provide serious competition with major state universities was the above-mentioned American University. At the same time, taking into consideration that, as it was mentioned, the university started its operation by implementing MA programs (having the first graduates already in 1993), that were only just being initiated at that time and only in the State Engineering University of Armenia. Also, allowing for the fact that there were sufficient differences between it and the state universities of Armenia in terms of the teaching language and regulations (particularly in the sphere of organizing the education), the American University could not create a common competitive field that would stimulate the change of new educational technologies and management methods in the higher education system.

Instead, the higher education system was diversified in another way, with the establishment of higher education institutions founded by intergovernmental agreements.

French University in Armenia was established later based on the Agreement "On Cultural, Scientific, and Technical Cooperation between the Republic of Armenia and France," signed in Paris in 1995.[6]

On August 29, 1997, the Armenian-Russian University was established based on an agreement signed in Moscow between the Governments of the Russian Federation and the Governments of the Republic of Armenia,[7] which, as part of the higher education system of Armenia, created some alternative opportunities in terms of the competitiveness of the offered educational programs. The university is an educational institution providing joint RF and RA higher professional education and has the RF and RA state university status.

It was a significant circumstance that the university, by awarding a qualification corresponding to the speciality received, provided both Russian and Armenian state diplomas, the first attempt to apply the double qualification practice accepted both globally and in the common European higher education area, formed with Armenia's participation.

It should be noted that the establishment of both the American University and the intergovernmental universities gradually fostered academic mobility, enabling the development of the most important

[6] https://ufar.am/hy/universit/universit-intergouvernementale.html
[7] http://www.rau.am/rus/o_rau/ocherk_istorii/ocherk-istorii-rau

component of education - intercultural communication, open-mindedness, and critical thinking.

* * *

Returning to the general education reforms, measures to liberalize the system - increasing the degree of school autonomy, the right to choose textbooks, the right of parents to choose a school, and the dissemination and testing of alternative pedagogical methods - should be noted. All these measures created an atmosphere of creativity in the general education system during those years, ensuring a significant development of the system in the conditions of scarcity of resources.

"Reflect on the Past and Look to the Future", or Instead of Conclusion

The liberal spirit of the 1990s, which permeated all spheres of the political, economic, scientific, educational and cultural life of the newly independent state, as mentioned, in the conditions of the establishment of the policy of totalitarian rule formed in the 2000s, nevertheless continued to influence the education system, due to a whole generation brought up with it, as well as liberalism, which is generally present in education. It was no coincidence that the education system itself became one of the main targets of the established totalitarian system. To establish totalitarian power, it was necessary to harden the education system itself, not allowing the spread of alternative thought, critical-analytical speech, and open-mindedness specific to academia.

Gradually, a pyramid of hierarchical governance was built in the universities, which eliminated the academic freedoms of teachers and students. As a result, the actual educational activity appeared in the margins; the educational process was organized by rigid, outdated and inefficient schemes.

The institute of elections of faculty and administration (deans, heads of chairs) completely devalued. Their functions gradually reduced. Instead, the central administration bodies developed, whose primary function was to ensure total control over the lecturers and students. Various structures and mechanisms were established to control students, and the student self-government bodies became bodies governing students.

And although some structural changes were made in line with international commitments, including the Bologna Process, to bring them in line with European standards, they remained at the level of superficial transformations, with no real impact on the substantive development of the system.

General education experienced a more extensive retreat. It was entirely in the service of the ruling regime's reprehensible goals. The widespread intimidation of school teachers by involving them in electoral processes, creating a general environment for illegal transactions and violations of professional and human dignity, discredited the school and severely damaged the teacher's reputation.

* * *

Today, when there is another opportunity to make fundamental reforms in education, redefine the role of schools, universities, and restore the proper environment conducive for free, responsible citizens, the liberal spirit of the reforms of the 1990s must once again be in demand.

SOCIAL POLICY OF THE REPUBLIC OF ARMENIA AMID CONDITIONS OF MARKET LIBERALIZATION (1990-1995)



ASHOT YESAYAN

Minister of the RA Labor and Social Security, 1990-1995

Looking back at the 30-year history of our independence, we realize that the beginning of the '90s changed our nation's fortunes dramatically.

In fact, on August 24, 1990 – the day that followed the adoption of the "Declaration on Independence of Armenia", the Armenian Soviet Socialist Republic was renamed the Republic of Armenia, seceding from the disintegrating USSR. Parliament formed a new political system based on the principles, ideas and values of democracy and liberalization, and embarked on the implementation of revolutionary political, economic and social reforms conforming to independent statehood.

Let us outline the negative preconditions that existed on the eve of the social policy implementation:

1. unresolved consequences of the disastrous Spitak earthquake;
   1.1. approximately 25,000 human losses, and, thousands of orphans;
   1.2. tens of thousands of people had become disabled, and were in dire need of at least minimal monthly subsistence, and, in the case of those with upper or lower extremity losses – for prosthetics, too;
   1.3. tens of thousand of unemployed, due to hundreds of enterprises and institutions being destroyed;
2. an inflow of approximately 450,000 Armenian refugees from Azerbaijan and Central Asian republics to Armenia;
3. heavy human losses suffered in the course of the ongoing national liberation war;
4. the blockade imposed on the country and disruption of economic ties with the USSR and other countries;

5. the insufficiency of the Soviet social security infrastructures and a lack of possibility to adequately respond to the needs of people during the process of economic liberalization;
6. huge losses of savings which people had accumulated for decades in the banks (after the breakdown of the USSR the Savings Bank of the Republic of Armenia received no money at all);
7. a lack of handbooks or anthologies on the methods of transition from a socialist structure to a free market economy and private property (from a socialist to a capitalist economy);
8. the short time allowed for switching from autocratic to democratic governance;
9. the absence of the pension insurance system in the USSR, since the funds allocated to the state pensions formed a separate part of the state budget;
10. the fact that the majority of the population, especially – the older people of the third generation, had never lived amid free market economic conditions.

The positive preconditions were as follows:

a) the boundless patriotism and aspirations of the people, especially the young, for building an independent and free Motherland;

b) a yearning for living independently and freely, and for establishing national statehood by their own efforts;

c) determination to win during the National Liberation War;

d) belief in and yearning for entrepreneurship, living a free and creative life under the new economic conditions;

e) active participation of intelligentsia in the processes of political, economic and social reforms.

Thus, taking into account the above, from 1990-1995, the goal of the social policy of the Republic of Armenia became the adoption of such social ideology that would comply with the new social, socio-economic, political relations; enabling the country to adequately respond and possibly mitigate the most difficult social conditions emerging alongside the economic liberalization process, and ensuring long-term social stability for the sake of independent statehood, the dignified life of our people, and free human development.

However, it must be acknowledged that the social sphere is very sensitive, and it would be naïve to expect that the population of the

country could readily cope with the negative conditions resulting from the ongoing abrupt changes. Consequently, the steps being planned and taken were mainly aimed not only at preventing the rapid deterioration of people's social status, but at the creation of viable and stable structures and subsystems that would maintain their functionality in the long term.

The following questions appeared on the agenda for the elaboration of a holistic social policy:

- Help the weak, or the lazy ones?
- Who should be helped and why?
- What should the scope and mode of help be?
- How long should the help be provided for?
- Social segmentation or social consolidation?
- Social corrosion, or social buildup?
- Social atavism, or social progress?
- Social quantity, or new social quality?
- Social passiveness, or increasing social agility?
- Is the social sphere about expenditures, or investments, is it a free-run system, or a goal-oriented, targeted policy?
- Just a transition economy, or a transition society?
- What should be the main mission of the new social policy?

Based on the above, the following became the key componential directions of the RA social policy from 1990-1995:

- formation and introduction of new frameworks congruous with the new situation;
- creation of a management model to comply with these;
- changes in the legislation to regulate the management of the new systems;
- attraction of human resources and their training;
- establishment of relations with the Diaspora;
- establishment of international relations;
- developing cooperation frameworks with the social assistance groups that were not yet legally established and were spontaneously formed in various professional and labor communities; promotion

of social dialogue; establishing partner relations and building trust among individual benefactors and volunteers;
- humanitarian assistance planning and distribution;
- other innovative solutions.

These were the sectoral specialization components:

- social security and insurance (mainly – pensions and allowances);
- formation of the workforce demand- and supply-based labor market; urgency of resolving the unemployment problems;
- introduction of the system of establishing social services for implementing a targeted policy, identification of the population's vulnerability and humanitarian assistance;
- introduction of information and communication technologies;
- formation of the unified supervision system of social security;
- finding alternative financial and material resources.

The principles of social policy adopted:

- philanthropy,
- social justice,
- social solidarity,
- social targeting,
- transparency,
- ensuring social cohesion,
- equality of rights,
- social dialogue and partnership,
- social trusteeship exclusion,
- strengthening of family ties and increasing the citizen's social responsibility towards him/herself and his/her family.

Later on, these principles were reflected in a number of the RA laws regulating the social sphere.

Creation of structural subsystems and institutionalization

1. A new organizational structure was formed in the Ministry after the latter was reorganized: the Armenian SSR's State Committee for Labor and the Committee for Cultural Relations with the

Diaspora became part of it, and the new structure was to be in position to adequately respond to the requirements of transition to independent statehood. Although units of psychological support, family assistance, and reforms were established in the Ministry, the state apparatus was not inflated: the staff of the Ministry remained at the same level of 78 people.

2. In 1991, the Pension Fund was established in the 37 former regions of the Republic as well as in the cities and towns having administrative districts.
3. It also incorporated the newly created Employment Fund.

The unity of these two funds relied not only on the unification of the monthly social security payments by employers and employees for pensions and unemployment allowances, but also avoiding excessive administrative expenses. The employees of the Fund were much more motivated through a fixed salary fund interest payable to them against the social payments collected. The more the social contributions collected in the Fund increased due to their efforts, the higher their salary percentage would be.

4. Employment services were established in the 37 former regions of the Republic as well as in the cities, and towns having administrative districts. The reasons for forming such services were as follows:

4.1. De jure, the notion of “unemployed” did not exist in the USSR. Each adult citizen, unless a student, was obliged to work. If anyone did not work for three or more months, he/she would be considered a parasite; this was seen as criminally punishable behavior.

4.2. Since the liberalization of the economy, the disruption of economic ties with different republics of the USSR, and the blockade caused mass layoffs, the newly formed regional Employment services had to determine the unemployment status of unemployed citizens applying to them, define allowances, provide humanitarian assistance to their families, organize vocational trainings and provide job placement mediatory services.

4.3. It should be noted that the social payments made by employers and employees to the Pension and Employment Fund were separated from the state budget to avoid pursuing a “residual financial policy” of the Government of the Republic of Armenia. The governing body of the Fund was the Board of Directors, which included representatives of the employers’ union, the trade union confederation, and the Ministry of Finance.

4.4. The introduced employment services developed into structures that had appropriate mechanisms for mitigating massive unemployment, appointing unemployment allowances, setting up training sessions, and providing humanitarian assistance to the families of the unemployed.

5. An objective need arose for introducing a new system of social services in 37 administrative regions, cities, towns with administrative districts, in urban settlements, although not only did such social services not exist in the USSR, but also such a specialization, did not exist either The reasons for the introduction of this structure were as follows:

5.1. The hyperinflationary events that had already begun in the ruble zone dictated that social security cushions should be established for every member of every family in the country. Employees of the existing social security departments were overburdened by indexing the allowances of 850,000 beneficiaries and the pensions of 620,000 pensioners. Quarterly recalculations were carried out by hand (wooden) counters, or on abacuses, since in 1992-1993 the Ministry had very few computers; only at the beginning of 1993, did the Shengavit social security department introduce the appropriate software for appointment, payment and recalculation of pensions. Thus, the staff members of the social security units did not have the opportunity of getting involved in the distribution of mass humanitarian aid, talking to people and trying to help alleviate their social problems.

Legislation

1. Restrictions on the payment of pensions to employed retirees were lifted because it contradicted the principle of the right to a pension as well-deserved property; also it was impossible to fully control.
2. Irrespective of whether a person had worked or not, all those citizens above 60 years of age got the right to old age allowance (pension).
3. During 1990-1993, legislative bases were created for appointing higher pensions for the families of the freedom fighters killed or wounded in the course of the liberation struggle, equal to the pensions of those who were disabled during the Patriotic War, and of the families of the victims of the war.

4. In order to achieve the above, it was necessary to determine the cause and effect of the deaths, wounds, injuries, or concussions of the participants of the Liberation War, whereas no such structure existed in Armenia (a military medical commission operated only in Tbilisi).
5. For that purpose, firstly the Defense Committee of the Supreme Council of the Republic of Armenia, and later on the military medical commission established in the RA Ministry of Defense with our assistance were presenting relevant conclusions, on the basis of which the medical expertise commissions were able to make decisions on causation.
6. Monthly pensions were defined for Armenian sportsmen who were awarded medals at the Olympic Games, European competitions, the USSR Spartakiade, and then retired from the sport.
7. In the RA Law "On Victims of Repression", along with defining the status of a "victim of repression", norms of social assistance were stipulated for the corresponding individuals.
8. In connection with the 80th anniversary of the Armenian Genocide, the RA President Levon Ter-Petrossian issued a decree, by force of which pensions were increased for those people who were born before or in 1915 and survived genocide in the territory of Western Armenia and Ottoman Turkey.
9. Within the system of benefits, the right to allowance of minors below eight years of age was extended to cover children below 16, and in the case of students – below 18.
10. In order to alleviate the financial burden of the Pension and Employment Fund (males were eligible for pension from the age of 60, females – from 55), a decision was taken in 1995 regarding the increase of both males' and females' pensions by half a year, and setting the same year for both sexes starting from 1996, eventually fixing the pension eligibility age at 63.

International cooperation

1. We gained membership of the UN International Labor Organization and in November 1992, Armenia became a full-fledged member of the ILO.

2. By a decision of November 30, 1993, the Republic of Armenia's membership to the International Organization for Migration (IOM) was approved.
3. Based on the decision of December 2, 1993, the RA Supreme Council joined the Employment Policy Convention of July 9, 1964.
4. A number of other ILO conventions were signed.
5. During 1992-1994, agreements were signed between the CIS member states on the pension security of servicemen, internal affairs personnel, ordinary pensioners and their families, which gave our compatriots living in the CIS the right to receive pensions equal to the relevant country's citizens, which were significantly higher than our pensions.
6. An interstate agreement was signed in Yerevan with the Migration Department of the Russian Federation, which gave our citizens the right to equally enjoy all the rights of Russian citizens under the Russian Labor Code (previously, grave discrimination was observed especially against our migrant compatriots working in Russia).

International cooperation partners:

- UN Armenia office,
- World Bank,
- International Monetary Fund,
- Development agencies of the USA, Federal Republic of Germany, Denmark, the Netherlands,
- Ministry of Labor of France.

In those years, cooperation with the United States, Germany, the Netherlands and some other European countries within the framework of the European "Tacis" program was a priority, mainly in the field of technical assistance and humanitarian aid.

Following discussions with the experts of the International Monetary Fund, Helen Sutch and MacKenzie, and based on the example of Bolivia, the Social Investment Fund was established in Armenia.

Through the "Tacis" program implemented within the framework of cooperation with Europe, partnerships were established for the training of civil servants with Dominique Georges, Program Coordinator, as well as with the French National Institute. Upon discussions with Dominique

Georges, preconditions were created for the Civil Service Council to be formed, and for the current Academy of Public Administration, which, in our opinion, should have functioned within our ministry, as we were the state agency authorized to carry out labor-related functions.

“Paros” vulnerability scoring system

The ideological basis for the social services to be introduced:

1. Create such a system of fair and targeted distribution of the large volumes of incoming aid, which would accept any subjective interventions.
2. For me in my status as a minister, it was very difficult to identify the truly needy people among those who were coming to meet with the minister. Someone could draw a really gruesome picture of his/her social situation, whereas a larger segment of our people, not feeling comfortable to ask for assistance, would not turn to us for help, or did not do so because of lesser social mobility.
3. To build the donor communities and the individual benefactors’ trust, it was key to have a sustainable system in place, operating in a strictly targeted mode.
4. There was an urgent need for having an unbiased system for assessing the population’s vulnerability, independent from anybody’s influence or will, in order to distribute the material, natural, humanitarian and financial aid according to the level of need, in a strictly targeted way, which then would become a proper basis for forming a unified system of family benefits.

In order to implement the above, a working group was set up both in the Ministry and in the Yerevan Scientific Research Institute of Mathematical Machines (YerSRIMM), through the efforts of which the rationale of introducing the “Paros” system was elaborated together with the roadmap of its upcoming operation. With the financial support of the United States Agency for International Development (USAID), some 30 computers were provided to the YerSRIMM.

To collect data, 500 students of Yerevan State University’s 3rd and 4th year, during the summer holidays, with the employees of our services, worked for two months (reimbursed USD 20 per month), visiting all the families of the Republic who applied to our social services and stated their needs.

As mentioned above, due to the absence of the institute of social workers, people with different professions were employed in social services, who, in addition to implementing the distribution of humanitarian aid in compliance with the "Paros" system data, had to provide nine additional functions of social work to socially vulnerable groups at risk.

The results of the "Paros" system introduction

1. ensuring the integrity and reliability of information;
2. reduction of possible shortcomings, errors, duplication of and subjective interference in information;
3. possibility of selection and use of social groups and their locality within the Republic, based on any segmentation; provision of information to the donor community in the case of the latter's desire to extend assistance to any of the social groups in any location selected;
4. poverty mapping by settlements and social groups;
5. uninterrupted provision of diversified information;
6. ensuring transparency in humanitarian aid distribution (the lists of beneficiaries were posted at the entrances of shops distributing bread by coupons);
7. creation of preconditions for interagency cooperation;
8. besides, the family allowances (albeit small) successfully introduced since 1994, laid the basis for fully introducing the system of family allowances from 1999 on;
9. the establishment of the "Paros" information database system through its regularly updated information contributed to ensuring reliability, compliance, flexibility, accuracy and transparency;
10. With the introduction of the "Paros" system, it became clear that about 200,000, or at least 18% of the 850,000 Armenian families, not considering themselves poor, did not apply for any assistance. Hence, the expression "relative poverty" circulated by the World Bank in 1993, acquired a specific situational assessment: firstly, the "relative poverty" decreased from 80% by 18%;
11. It also turned out that some of the citizens who applied to the "Paros" system, in addition to owning a house, a car, a summer house, availing of the privatization of property, wishing to get in-kind assistance, especially oil and kerosene heaters, but not being

recognized needy by the “Paros” system, they stopped applying to the system;

12. With the privatization of land, not only did the rural population solve its employment problems, but the vast majority, about 90%, having production tools, were left out of the land-based vulnerability system.

    The peasant economies were not only able to meet the needs of their families, but also to regularly supply food products for the urban population, producing 98% of the overall agricultural produce.
13. In fact, thanks to the “Paros” system, not only did it turn out that approximately 50% of the population was declared poor in the Republic at the end of 1994, but it could also periodically give a picture of poverty in each settlement of the country.
14. The “Paros” system ensured reliability, compliance, flexibility, accuracy and transparency.
15. It is also noteworthy that the “Paros” system established in Armenia was considered the best program for scoring vulnerability in Eastern Europe.

Innovative solutions:

For carrying out some specific activities, additional financial resources needed to be found, since the RA state budget was not able to provide it.

In February 1991, the first charity auction concert was organized in Armenia, which was followed by other charity concerts. The funds raised gave an opportunity to organize the first charity canteen, provide the elderly with additional food, and purchase large cattle for nursing homes - to provide additional food. In addition, threads were purchased to enable nursing home residents to knit gloves and socks for the army soldiers.

Ingraining of social partnerships

The countries that switched to market relations are clearly characterized by the presence of civil society; the first steps thereof were made during 1990-1995.

After the Spitak earthquake, various public organizations spontaneously emerged in Armenia, dealing with the issues of care for the elderly, the disabled, women, children; human rights advocacy and assistance, although the Law On Non-Governmental Organizations was not adopted yet, and we registered these organizations working in the social sphere in the Ministry.

Among them were “Mission Armenia”, “Pyunik” (Phoenix), volunteer groups from the professorial communities of Yerevan State University and other universities, which to a greater or lesser extent expressed a desire to be involved in finding solutions for our people’s various social problems. All this served as a basis for improving the quality of social services, fostering civil society participation, cooperation, and exercising public oversight.

From 1991 on, an alliance of public organizations functioned under the minister; joint discussions were held on various ideas of social assistance and on the suggestions made by the members of the alliance.

For the first time, the Ministry signed a Memorandum of Agreement with the RA Confederation of Trade Unions, on a number of social policy provisions to be implemented within the upcoming five years.

In full compliance with the principle of the adopted social policy with the exception of social trusteeship, between 1992-1995 the idea of doing something useful against the extended assistance was suggested to people (“teach how to fish instead of giving a fish”).

Therefore:

1. Following the lead of the US President F. D. Roosevelt during the Great Depression (1929-1933), starting from 1992, the employment services implemented the “Food for Work” program, thus organizing the works of cleaning the surroundings of cultural centers, and improving lawns.
2. From 1993-1995, the “Food for Training” program was launched: instead of stipend, food parcels were given to people with no occupation – to encourage their participation in certain training courses.
3. As a result of cooperation with the Danish “Mission West” humanitarian organization, NATO’s mobile field hospital, so much needed for the wounded in the war was brought to Armenia and set up in Goris.

4. A prosthetic center worth 20 million German marks was established and put into operation, the staff of which had been trained in Germany for two years.
5. With USD 1 million fundraised by Lebanese Armenians and with the assistance of the US World Rehabilitation Center, 10 young people were trained in Armenia by the US experts in prosthetics.
6. The wheelchairs and rehabilitation devices purchased in France were regularly transported by air to Armenia with the assistance of the Diaspora benefactors.
7. Production of orthopedic and locomotor accessories was expanded in the system of the Ministry: upper extremity bioprostheses, crutches, mobility accessories, orthopedic shoes, insoles for children with flat feet were provided free of charge.
8. Because of the increase in the number of people with disabilities due to the 1988 Spitak earthquake, as well as those disabled in lower and upper extremities during the National Liberation War, there was an urgent need for prosthetics. At the time of the construction of a German prosthetics center, 12 young people were trained in Heidelberg, Germany, at the local prosthetics educational institution, and upon return to Armenia started working in the newly established center.

The US prosthetics project

As stated above, with the financial assistance of Lebanese Armenians, the US Global Rehabilitation Center organized training for another 10 young people to become prosthetics specialists, founding the USA Prosthetics School.

The third one was the prosthetics center operating based on the USSR model; its services were used by people who were disabled both in the Patriotic War and in other circumstances.

In 1991, the Rehabilitation Hospital was put into operation. Our decision was to give the “Stress Center” (subject to closure by the Ministry of Health) the opportunity of joining our Rehabilitation Hospital, and alongside medical and social rehabilitation, psychological services, too, were added, thus making the function all-inclusive, in line with the international rehabilitation standards.

Outcomes of the social policy implemented during 1990-1995:

- We had social policies agreed upon by the public.
- A common belief was formed that it was part of the RA national security.
- Overall, the new social security system was successfully established, the newly created social structures were able to adequately respond to most complicated social issues.
- Although the society's sensitivity against social turbulence was rather high, the regular and targeted distribution of goods allowed to avoid instances of mass famine.
- Everyone was given equal opportunities to exercise the prescribed social security rights.
- The orphanages and nursing homes that used to be closed institutions for the public, opened up their doors, and society focused on the problems existing therein.
- The country was not turned into a system of orphanages and nursing homes; the number of their residents did not increase, because, based on the national system of values, the negative attitude of society towards those handing over their family members to nursing homes or orphanages remained unchanged. Serious work was carried out with adults having old parents and those who were trying to do so (the main reason being insufficient housing conditions).
- The introduced frameworks and programs, the majority of the newly created infrastructures and of the decisions taken have endured the test of life and proved their long-term effectiveness and vitality.

INTRODUCTION OF LOCAL SELF-GOVERNMENT SYSTEM IN THE REPUBLIC OF ARMENIA



VAHAN MOVSISYAN
President of Community Finance Officers Association

The general state of the public administration system inherited from the Soviet times

After the collapse of the Soviet Union, the newly independent Republic of Armenia inherited a system of public (state) governance, characterized by a centralized, upright nature, direct subordination of levels, and the adoption of policies and decisions at the highest party levels of government. In the difficult period both before and after the independence (Karabagh movement, the Spitak earthquake, blockade, the war in Artsakh, etc.), the adoption of the RA Constitution that would constitute the legal backbone of the Republic, where - among other constitutional regulations - the public administration system was to be separated from the state administration, and the local self-government was to be fixed as a complete sub-system, was postponed for a while. During this period, before the constitutional referendum was held, as a result of which the RA Constitution was adopted, the public administration bodies operated with a rigid “from top to the bottom” structural logic leftover from the Soviet period. The same applied to territorial (including local) governance and its specific administration. In its internationally accepted sense, there was no local self-government, both in the Soviet period and in the first five years after the Soviet era. Therefore, as an independent system and a possible component of public administration, it had to be introduced in the newly independent Republic of Armenia.

Thus, during the Soviet era, there was a huge state governing machine in Armenia, the policies of which were implemented by the territorial and local government bodies in the administrative-territorial units of the country - AKA, the regions. At the same time, in many developed countries of the world (American, European, East Asian,

etc.), local self-government was considered one of the pillars of state governance. In that sense, the introduction of the local self-government system in the newly independent Republic of Armenia was a powerful political commitment that the newly created authorities of the Republic of Armenia were going to undertake.

Introduction of Local Self-Government

As a result of the constitutional referendum held on July 5, 1995, the RA Constitution was adopted, which directly stated that power in the country belongs to the people, and the latter exercises its power through free elections, referendums, as well as through public administration and local self-government bodies. An entire chapter of the adopted constitution was dedicated to defining the key provisions of territorial administration and local self-government in the Republic of Armenia. According to that, the RA administrative-territorial units - regions - communities were defined, and it was fixed that territorial administration is carried out in the regions, and local self-government is carried out in the communities. The formation of community authorities was interpreted as the need to manage community property, resolve issues of community importance, and provide community-based services, according to which local self-government bodies - the community council and the community head - are elected for a three-year term. The community council was given the authority to own, use, and manage the community property (including land), approve the community budget, approve local fees and payments, and other powers.

From the formulation of the above key concepts in the constitution, it was already evident that the local self-government as an independent system is a new reality in the newly independent state, and there is not a very deep and conceptual understanding about it. There was even a widespread opinion that the local self-government units would be operating according to the former district or municipal/rural council models. Of course, maybe it is easy to evaluate things retrospectively. However, it should be noted that in RA history, for the first time, local self-government was guaranteed at the constitutional level, which in turn marked the formation and further development of a potential component of public administration.

Administrative-Territorial Division

The basis of the RA administrative-territorial division was also laid by the Constitution. However, unlike local self-government, the administrative-territorial division was not a new term in state-building. Soviet Armenia (ASSR) had its own administrative-territorial division, the formation of which was based on a certain solid logic. Therefore, before the new administrative-territorial division of the Republic of Armenia, the administrative-territorial division formed in the Soviet period continued to function in the country.

According to the 1988 data, the territory of the ASSR was divided into 37 regions and 22 cities of national significance. Of the latter, Yerevan was split into eight urban districts, Leninakan (now Gyumri) was divided into two urban districts, and no separate districts were formed in the other 20 cities of national significance. There were five cities of regional subordination in 37 regions, 31 urban-type settlements and 942 rural settlements.

In the districts, local councils and their executive bodies were functioning as government bodies. Those were local bodies for government and were included in the system of state governance. Each local council was considered a local body of state power in its territory and was authorized to resolve many issues assigned to it by law.

In the process of drafting the RA Constitution, when it was already clear that local self-government would be guaranteed in the republic, a question arose: where should it be implemented, and how many levels should it have? After defining the concepts of administrative-territorial units by the Constitution, it was necessary to form them geographically. If the situation was more apparent in the case of the regions, and their borders were drawn by mechanical unification of the territories of the former 37 regions, everything was not so clear in terms of communities. What would the communities be, or what geography would they include, and how many settlements could one community cover? Moreover, the borders of the regions were formed earlier, before the administrative boundaries of the communities were clarified, and not according to the territories of the communities included in them. Perhaps, the reason for this was to prioritize territorial government issues over local self-government ones in the public administration system.

To answer the questions mentioned above came the RA Law “On Administrative-Territorial Division of the Republic of Armenia” adopted by

the National Assembly on November 7, 1995, by which the territory of the RA was divided into 10 marzes, and Yerevan, and to 930 communities (including 12 district communities of Yerevan). The communities with their administrative territories were part of the regions. In these 930 communities, according to the Constitution, the local authorities had to be formed, and the local self-government had to be implemented. At that time, the total number of settlements in Armenia was 1,000. Following independence, there was a considerable migration in the RA territory, both internal and external. Residents of the villages where Azerbaijani people lived left the country, emptying the villages, and the population of many Armenian villages significantly decreased - some moved to larger villages and towns nearby, and some moved abroad for permanent residence. From this point of view, it would be more expedient to include the mentioned empty villages or those with a limited population in another community as a settlement. However, most of them were given the status of an independent community.

On the other hand, the RA Government and Parliament did not choose to dissolve the former Azerbaijani villages, hoping instead that they would be gradually resettled and get a new breath of life. This became a reality, partly due to the resettlement of refugees deported from Azerbaijan, and thanks to our compatriots who moved from Georgia to those villages.

At first glance, it is noticeable that the administrative-territorial division at the community level was significantly fragmented. This, of course, was more pronounced in the following years in the context of local self-government and administrative-territorial reforms. Still, in the initial stage of state-building, such an approach seemed justified in such a situation.

Indeed, only a few years ago, Armenia successfully overcame a challenging period, from 1988, from the Karabagh movement and the collapse of the USSR to the victory of the Artsakh war and the general difficult socio-economic situation as a result. Therefore, the adoption of the Constitution of the Republic of Armenia in 1995 was the first step taken on the way to re-establishing state institutions. In this regard, when the RA NA Decision “On the Action Plan of the Government of the Republic of Armenia” was adopted on July 29 of the same year, and the state government bodies of the newly independent republic began to form, they needed to “reach” all the villages, towns and settlements where there was a population. On the other hand, all these settlements

needed an established government body, which would constantly “pick up the phone”, be available for state and territorial administration bodies, and organize the services provided to the residents on the spot. From this point of view, at the initial stage of the formation of public administration institutions, perhaps having such a fragmented administrative-territorial system was justified.

In addition, after the highly centralized system of government in Soviet times, “autonomy” and “independence” were considered unquestionable values. This fact also affected the administrative division in giving each, even the smallest village, an independent right to power.

However, the fragmented administrative division at the community level has raised several issues since its inception. It was apparent that the 1,000 settlements, as mentioned earlier, differ significantly from each other both in the inherited “socio-economic infrastructure” and in the financial-human resources. Consequently, the local authorities to be formed in almost each of these settlements also had to be somewhat different. In this respect, the communities with a small population found themselves in a more unfavorable situation, which in many cases did not have the necessary infrastructure for the provision of public services nor the experience of self-government on the ground. Therefore, those communities would not be able to assume a wide range of powers that would give them high autonomy. Later, this directly impacted the residents’ trust in the community authorities and the local self-government system. Those did not have serious powers and could not solve significant community issues.

It should be noted that the administrative territories of the communities did not cover the entire territory of the Republic of Armenia. Moreover, they were limited to the territories of settlements; and in the case of rural settlements - to the lands of former kolkhoz/sovkhozes of agricultural significance. Outside the administrative territories of the community, there was also a large fund of state reserve lands, which was not under the subordination of the community and the ownership of the local government. Those territories were left out of “local self-government”.

Elections of Local Self-Government Bodies

In the Soviet era, elections at the regional/local level had an interesting “feature”. In addition to the fact that there was a one-party system, or that

the Communist Party was hegemonic, at lower levels of government, all electoral issues were agreed upon with the party's higher bodies, up to the nomination of specific candidates to regional, city or village councils. In most cases, one candidate was nominated without any competition, so the local government elections were of a formal nature. The first local government elections in the newly independent Republic of Armenia took place on November 10, 1996. And that day is celebrated in Armenia as a day of local self-government.

Before the first local elections, due to the adoption of the RA Constitution, three major electoral processes had already taken place in the republic - the RA presidential elections in 1991 and 1996, and the RA National Assembly elections in 1995. The elections were already distinguished by the fact that many parties and party and non-partisan candidates participated in them in proportional and majoritarian electoral systems. In this sense, the mentioned electoral processes created a non-partisan atmosphere in the country, which positively impacted the first local elections. However, it should be noted that during both the first and subsequent local elections, state and territorial authorities had some (indirect) influence on them.

The incumbent parliament followed the most democratic path in defining the electoral system of local governments. It fixed the quorum (primary mandate) for direct elections of the mayor and members of the council of elders for the communities. This was more in line with the fragmented administrative-territorial system, and it directly excluded the possibility of local self-government being under the subordination of the state governing body. Besides, particularly the direct election of the community head is a cornerstone issue in terms of relations with the residents and their participation in local self-government; without listening to the population and considering their opinion, the community head would significantly lower the possibilities for being re-elected in that post. Thus, a precondition was created to radically revise the "inherited" traditions of governance and adopt democratic approaches.

The establishment of a majority system for the election of community councils and community leaders was crucial in forming local self-government bodies, which allowed individual candidates to be nominated, regardless of their affiliation to a specific party or party affiliation in general. This led to an increase in the jurisdiction of the local authorities among the population. Initially, the term "council of elderlies" ("community

council") seemed to suggest (of course, not legally) that council candidates should be senior, well-respected residents of the community who had some life experience, institutional, and traditional memory enjoyed by the community and enjoyed the respect and trust of the residents. Later, following a couple of local government elections, the age composition of the candidates for the members of the community council changed significantly, and younger, more active and purposeful residents were nominated as candidates.

Of course, from the beginning, there were some concerns about the quality of the community council. It was evident that the community council members should be required to have a specific knowledge and experience base, which would allow them to make effective decisions about the community. However, the system of local self-government itself was a new phenomenon in the Armenian reality. From this point of view, there were not many people with even the slightest knowledge about the system. In addition, in democratic societies and public administration systems, there are almost no educational or professional restrictions on officials elected by popular vote; at best, there is an age limit, mainly in the cases related to adulthood. The National Assembly did not impose restrictions on candidates for local self-government bodies (such as education). Still, it only imposed age restrictions, in the case of a community leader - 25 years, and of a council member - 21 years. In addition to the age limit, the candidate should also have a residence permit in the community for at least one year and should have conscientiously fulfilled their state tax obligations to the community in the previous three years.

It should be noted that various international and local organizations operating in Armenia were conducting studies on the newly formed system of local self-government and unanimously stated that local elections were much freer, fairer and more transparent than other national elections. Moreover, these opinions and assessments were also expressed later, saying that a relatively small number of election violations were registered during the local elections and that the population had much greater confidence in these elections than in the national elections.

In small, underdeveloped communities, the situation began to change in the sense that there were not even the above-mentioned "stakeholder" circumstances and interests. Often the mayor himself tried to "ask" this or that resident of the community and to persuade him to run for the council of elders to form a community council. In these cases, of course, it is

even unnecessary to talk about the competitive atmosphere during the local government elections.

Considering the aforementioned shortcomings and consequences, however, it should be noted that the majoritarian system of local government elections was the best solution that could have been made at that time. If the elections of the community council were held by the proportional electoral system then, and only the parties would have the right to nominate a list of candidates, the whole system of local self-government would face almost insurmountable difficulties. It was not the case that the officially active parties registered in the republic in the '90s had their local-territorial offices in all regions, especially in the communities. Consequently, in many cases, it would turn out that the elections to the community council and its formation would be called into question or would lead to a return to a one-party system.

It is noteworthy that direct elections of the mayor (by majoritarian system) are still considered in many European countries as a major achievement of the system of local self-government, as well as a great victory of democratic values in the system.

As an executive of the local government, the head of the community objectively is required to have specific knowledge and management skills. In this regard, at the initial stage of the system, there were clear concerns: how should the community be governed if a very authoritative person has been elected to a community leader post who does not have any management experience or education? The institute of the community council staff secretary was introduced to solve this issue. Its aim as a specialist firstly was to organize and directly manage the everyday activities of the community staff, internal and external document circulation, preparation of draft decisions of local self-governments, preparation of and minute-taking during council meetings, control over the implementation of decisions, preparation and publication of reports, documentary relations with state/territorial governing bodies, etc. Given the importance of this position, community leaders used to appoint those who could perform the above functions to a sufficient level or at least had high organizational skills. And it is not surprising that in the early stages of the system, those positions were held by people who held similar positions in former city or village councils and had the institutional capacity and memory in community staff and affairs management. The same applied to the structural subdivisions of the community staff, according to the

spheres of activity of the local self-governments, the managers or, in many cases, the employees.

One should note that in the initial period of establishing the local self-government system, the community leaders had a strong position in their relations with the state governing bodies. Moreover, in several cases, they were able to lobby for legislative changes and reach the desired result as a collective unit. This is a characteristic feature of highly developed local self-government systems. It is noteworthy that the State, in its turn, greatly emphasized the capacity building of local governments, and cooperated with international organizations in implementing programs to develop the capacity and skills of community authorities and staff. It is not accidental that at that time, three large non-governmental organizations were established in the republic: The Union of Communities of Armenia, the Association of Councils of Armenia, and the Communities Finance Officers Association, whose main activity was aimed at implementing staff capacity building and skills development programs for the community authorities. Later, the activities of these structures expanded even more, including the representation and protection of the interests of local self-government, community staff, the development of policies, legislative and by-laws, their implementation after their adoption, and so on.

In terms of staffing, there was initially a two-fold problem with the low level of remuneration for community servants. In relatively large communities, the number of professionals who were willing to work for that low salary was small, and those who agreed to it were mainly trying to find a source of “extra income”. In this respect, the situation was radically different in small and medium rural communities. The workload of community staff was not exceptionally high here, considering the high level of unemployment, especially in the villages, even such a low-paid job seemed quite attractive. Additionally, there were cases when, on the eve of the elections, the candidate for the mayor was already “distributing” those positions among his supporters to collect votes. Thus, often, when the head of the community changed, most of the staff changed with him. Of course, later, the community service legislation tried to regulate this issue, to separate the professional activity from the changes of the political conjuncture, but still, the community head always found an excuse to get rid of the “teammate” of the former community head. This problem had a double impact on the community. On the one hand, with each new community authority, the

staff changed, and they needed some time to adjust to the new job. On the other hand, following several local elections, a significant group of people was formed who had a relatively good understanding of the local self-government because they formerly worked in the community and accumulated sufficient knowledge and experience.

Powers of local self-government bodies

Almost a year passed before the adoption of the Constitution of the Republic of Armenia when the key provisions and governance mechanisms of the local self-government system were defined and before the Law On Local Self-Government was adopted. During this period, by the decree of the President of the Republic of Armenia, the order and powers of the territorial administration bodies were regulated, and the administrative-territorial division of the Republic of Armenia was defined by law as a matter of priority. The RA Law On Local Self-Government, adopted on June 5, 1996, described all the main issues arising from the constitutional regulations, which referred to the system.

Before that, on May 14 of the same year, the National Assembly adopted the RA Law on Local Self-Government Elections, which regulated the upcoming first local self-government elections. They took place on November 10, 1996, which is also marked as local self-government day in the Republic of Armenia. As can be seen, the system of local self-government was formed based on administrative-territorial division and not on the grounds of efficiency and accessibility of solving community problems. In other words, the scope of issues was not defined by the solution of which local self-government was needed, but a range of powers was considered that could be delegated to local authorities in the territories of already established communities. One of the reasons for this, at least, was the wording of the Constitution, which stated that local self-government should be exercised in the communities. Therefore, it was a priority to form those communities and consider the powers transferred to the local authorities. In this sense, the origin of the term “authority” has its interpretation in the context of local self-government. In many European countries, where the system of local self-government has a tradition dating back hundreds of years, local authorities are considered bodies with more “responsibilities” than “rights”. This is the reason for the public perception of the latter as

bodies that solve community problems, and not a government acting from the position of “right” or “force”.

Community property

In order to ensure local self-government and provide public services to residents, the communities needed property – land, infrastructure, assets, etc.

If we do not consider the Baltic States, then among the former Soviet republics, it was only in Armenia where the land in the community’s territory was transferred to the communities as property by law (except for the lands that had already been privatized by other legal-natural persons, as well as from the state reserve lands). In other post-Soviet countries, the system of local self-government was also introduced. Still, government agencies avoided transferring land to communities as property, fearing other problems of its inefficient management. In our case, this was an unprecedented step in terms of a successful start to establishing the local self-government system. Local self-government bodies were formed in the Republic and were not under any subordination of the central authorities, they had the right to make independent decisions on the ground, moreover, they became the largest owners of the land. This was a typical approach to the developed institutions of local self-government from the point of view of state-building in the country.

It is noteworthy that although the administrative territories of the communities did not cover the entire territory of the Republic of Armenia, the state lands and pastures suitable for agriculture were nevertheless transferred to the communities, which played a vital role in later regulating food security issues in the country.

The transfer of land in the communities to the ownership of the community played a particular role in protecting nature and the environment. There are many tree-lined valleys in Armenia. Transferring adjacent areas to community ownership and then privatizing them, largely prevented illegal logging in those areas. The community and the private owners preserved the trees in their areas as much as possible, saving them from the bitter fate of becoming fuel. The above, of course, was a deliberate target from the beginning. However, it also had a significant side effect.

In 1997, by RA Government March 13, 1997 N42 and March 14, N51 decisions, the lists of property owned by all urban and rural communities of Yerevan were respectively defined. After Armenia gained independence, all the property of the Soviet Republic (including real estate) was transferred to the Republic of Armenia as state property. Based on the need to ensure the functions of local self-government in the newly formed communities and the requirements of the law, the RA Government defined the community-specific lists of property that were to be owned, used and managed by each of the communities. These included pre-school and extracurricular institutions, sport, culture and art houses, libraries, community water supply, sewage systems, heating and irrigation water networks, residential and non-residential funds, administrative buildings, other social and domestic buildings, streets and squares, bridges, parks and recreation areas, cemeteries, landfills, machinery, etc.

This was a crucial process, which despite some irregularities and incomplete inventory - was implemented, and which highly increased the authority of the communities because those became the primary players in the relations arising around real estate in the Republic.

Later, after 2002 when the new legislation on local self-government was adopted, the law stipulated that 30% of the proceeds from the privatization of state property (except land) in the community should also be transferred to the community budget.

Since the introduction of the local self-government system, community property inventory and effective management is one of the painful aspects for the communities and is still relevant today. Considerable financial means are required for a proper inventory list and state registration of the property, which the small and medium sized communities lacked. This is why a significant portion of the community property has not received state registration and until now is in “illegal” status.

Community Finances and Budget

Each level of government in public administration should have its financial system. If having or not having finances at one level of government is decided at another level of government, it is impossible to talk about the independence of that level of government. This crucial problem was well realized when developing the local self-government system. And from the beginning, the sources of tax and non-tax revenues,

which are specific to the activities carried out in the communities, the collection base of which is directly related to the property located in the administrative territory of the community, were transferred to the communities. Let's consider the traditions of governance formed in the country before independence, where the highest authorities decided the financial issues of even the lowest levels of government. It will become quite clear that endowing communities with their own sources of income was considered a genuinely revolutionary reform.

It is noteworthy that the provision of tax revenues to the community budget was initially reserved for the state tax authorities. This was primarily because, initially, the local authorities did not have the appropriate capacity to conduct tax administration. However, it soon became clear that the same tax authorities managed the local tax bases and tax collection with great reluctance and shortcomings, allowing various frauds in those processes. This is the reason why during the 2000s, after transferring the local tax administration to the communities, the efficiency of tax collection increased rapidly, not in terms of percent but exponentially.

Fixing the income gained from the sales or rental of the community property to the community budget, as well as the freedom of the local self-government to choose local duty rates within the statutory range, were also important. Fees charged by local governments for providing public services were also a significant source to form the community budget.

One should note that in the former Soviet Union (except the Baltic states), especially in our neighboring countries, this level of community budget independence (albeit not high) became possible much later. Armenia was also a pioneer from this point of view. This immensely helped increase the communities' financial independence, which is a possible guarantee and precondition for establishing a local self-government system.

It was clear that the communities of the Republic of Armenia are very different from one other, and the sources of their fixed income will also be different. In this sense, it was clear that mechanisms would be needed to bridge that gap between communities. The issue was to regulate the provision of subsidies on the principle of financial equalization. The latter was called to reduce the income gap between the communities.

An essential legislative provision was that the total amount of levelling subsidies allocated to communities could not be less than 4% of the actual revenues of the RA consolidated budget. This minimum

threshold has not been changed in the law so far, which is surprising, even ridiculous.

There is also another noteworthy fact. During the initial period of forming the local self-government system, the share of community budget expenditures in total public spending was about 12%. However, in parallel with overcoming the problematic socio-economic situation and the general growth of public spending, the share of community budget expenditures in the same public spending sphere has decreased year by year in the last five to six years, reaching the current 8%. In the 1990s, the public administration system paid much more attention to the importance of the share of local expenditures in the country's public spending than now.

Another important and justified legal regulation was dividing the community budget into administrative and fund (capital) parts. This division is alien to the countries with developed local self-government systems, but the latter played a significant role in the Armenian reality. The point was that the revenues from the alienation of the lands and property owned by the community were fixed exclusively in the fund budget, from which it was allowed to make only capital expenditures, namely to create a new capital value in the community in case of alienation of a capital value. This immediately ruled out and made the misappropriation of proceeds from the alienation of community property and their transformation, for example, to staff salaries, bonuses or other current expenditures, impossible.

The introduction of the system of local self-government in the Republic of Armenia played a vital role in the complex processes of state-building and development. It was imperative at that time. The authorities of that time clearly understood that, and they met that imperative. Moreover, it can be unequivocally stated that only Armenia among the former Soviet countries formed a local self-government system which in its approaches was equivalent in many respects to the systems of developed European countries. This put the system on a solid institutional footing, paving the way for its further development.

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