

## **LEGAL ANALYSIS**

### **ON THE IMPORTANCE AND THE HISTORICAL IMPACT OF THE CONSTITUTIONALLY GUARANTEED SYMBOLS OF THE REPUBLIC OF ARMENIA**

Recently, a controversial belief about the Armenian Highland has become widespread. Some scholars acknowledge the Armenian Highland as a constituent of the Caucasus Mountains range and region. Such statements regarding the Armenian Highland are of concern for people who are aware of Armenia's geographical and cultural-historical features<sup>1</sup>.

In order to decrease the knowledge gap of the above-mentioned accepted belief, it is necessary to refer to the relevant Articles of the Constitution of Republic of Armenia (RA), especially to the first and second parts of Article 21 in order to provide concrete information and education to the general public specific to the Armenian Highland.

The first part of Article 21 of the RA Constitution states, "The flag of Republic of Armenia shall be tricolor, with equal horizontal stripes of red, blue and orange"<sup>2</sup>.

The second part of the same Article adds, "The Coat of Arms of Republic of Armenia shall be as follows: in the center, a shield with the representation of Mount Ararat with Noah's Ark and the Coat of Arms of the four kingdoms of historical Armenia. The shield is held by an eagle and a lion, whereas a sword, a branch, a corn sheaf, a chain, and a ribbon are depicted under the shield"<sup>3</sup>.

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<sup>1</sup> See the legal documents and other sources mentioned below

<sup>2</sup> Constitution of RA from 06.12.2015; <http://www.parliament.am/legislation.php?sel=show&ID=5805&lang=eng>

<sup>3</sup> Constitution of RA from 06.12.2015; <http://www.parliament.am/legislation.php?sel=show&ID=5805&lang=eng>

Article 21 finalizes the reference regarding the Coat of RA through the third part of the Constitution as, “The detailed description of the flag and Coat of Arms shall be prescribed by law”<sup>4</sup>.

Referring to the above- mentioned legal norms, one shall conclude that the Constitution of RA regulates and specifies the descriptive elements of national symbols of RA as well as the implementation of symbols in different spheres. Therefore, while referring to the national flag of RA, it is necessary for one to acknowledge the law of the RA regarding the Armenian National Flag.

The Law “On the Flag of the Republic of Armenia” regulates the description and application order of the flag of the Republic of Armenia. Second paragraph of Article 2 of the mentioned law states, “The flag of Republic of Armenia is tri-color: from top to bottom red, blue, orange with horizontal equal strips. The red color symbolizes the Armenian Highland, the constant fight of the Armenian nation for longevity, for Christian religion, for independence and for freedom of Armenia...”<sup>5</sup>.

While continuing to refer to the legal justification on the Armenian symbols, it is also necessary to demonstrate the Constitutional authenticity about the national Coat of Arms of RA. To understand the legal authenticity of the Armenian national Coat of Arms, we refer to the the 2<sup>nd</sup> paragraph of the 2<sup>nd</sup> article of the legal act of RA “About the Coat of Arms of RA”, which sets the following: “The Coat of Arms of the Republic of Armenia is the following: in

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<sup>4</sup> Constitution of RA from 06.12.2015; <http://www.parliament.am/legislation.php?sel=show&ID=5805&lang=eng>

<sup>5</sup> The Law of RA “On the Flag of RA”, 15.06.2006;  
<http://www.parliament.am/legislation.php?sel=show&ID=2711&lang=eng>

the center - on the shield – Mount Ararat is depicted along with Noah's Ark and the Coat of Arms of the four kingdoms of historical Armenia: from above to left - the Bagratuni, from above to right - the Arshakuni, from bottom to left - the Artashisyan, from bottom to right – the Rubinyans coats. The shield is held by an eagle and a lion, and there is a sword, a branch, a bundle of wheat, a chain and a ribbon depicted above the shield”<sup>6</sup>.

The 2015 revision of the Constitution of RA affirms the irreplaceable power of the Armenian National Coat of Arms. The third part of Article 21 of the Armenian Constitution states, “The detailed description of the flag and Coat of Arms shall be prescribed by law”<sup>7</sup>. The article guarantees that Mount Ararat, as an exclusive symbol, cannot be changed through legislative amendments, as it is a constitutional legal norm, protected by the Constitution of RA. Thus, it is guaranteed by the only legal act which has supreme legal force and other legal, normative acts must comply and cannot contradict with constitutional norms.

The above-mentioned legal norms show that the Armenian national flag as well as the national coat of arms were confirmed after Armenia's First Independence in 1918. All Armenian national symbols emblemize different national elements, which not only emphasize the Armenian Highland but also Armenian historical kingdoms. Therefore, there is a necessity to refer to the historical interpretations of these symbols.

Currently, the international outlook is that the Caucasus Mountain range between the Caspian and Black Seas along with the Lesser Caucasus, are part of the Caucasus mountainous

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<sup>6</sup> The Law of RA “On the Coat of Arms of RA”, 15.06.2006;  
<http://www.parliament.am/legislation.php?sel=show&ID=2710&lang=eng>

<sup>7</sup> <http://www.president.am/en/constitution-2015/>



region, also encompassing the Armenian Highland; which in fact, from historical and geographical as well as constitutional-legal perspectives, is an outright distortion of facts. Precisely, both the Armenian Highland and the Great Mountains of Armenia symbolize our national, historical, and geographical values and have become a symbol for the homeland of our great nation. The Armenian Highland is located in Western Asia, between the Iranian and Cappadocian Cappadocia plateaus<sup>8</sup>.

The Armenian Highland is approximately 400,000 square kilometers. Both the Republic of Armenia and the Republic of Artsakh are located in the Armenian Highland. The two Republics cover only 11% of the entire Armenian Highland.

The highest mountain of the Armenian Highland is Mount Ararat, which in the Armenian tradition is known as “Masis”. Mount Ararat is one of the indispensable Armenian national symbols and is considered to be a “sacred mountain”. The sacredness of Mount Ararat emerges from the Biblical texts, such as the “Biblical Flood” and the story of “Noah and his Ark”. Noah’s Ark landed on the historical Mount Ararat, which later became Armenia’s national symbol and continues to be the part of Armenians’ identity.

Mount Ararat was geographically located in the center of the four Armenian kingdoms. It is considered part of ancient Armenia and is therefore placed in the center of the Republic of Armenia's coat of arms. Mount Ararat has been identified as Armenia’s symbol and has been depicted as Armenia’s State symbol even during the 19<sup>th</sup> Century when there was no Armenian state. There can be no discussion about the Armenian Highland and its historic significance for

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<sup>8</sup> Հայաստանի Հանրապետության Ֆիզիկաաշխարհագրական օբյեկտների համառոտ տեղեկատու բառարան // Գեոդեզիայի եւ քարտեզագրության կենտրոն ՊՈԱԿ // Երևան 2007 թ.

the Armenian people without giving reference to the Treaty of Sèvres signed in August, 1920. It was signed between the sultanate government of Turkey and the Allied States (Great Britain, France, Italy, Japan, Belgium, Greece, Poland, Portugal, Romania, Armenia, Chekhoslovakia, Servia, Croats and Slovenian Kingdom, Hezaz), which had won World War I and was fought between 1914-1918.

In the relevant parts of Articles 88-93 of the Treaty of Sèvres', devoted to Armenia, Turkey recognized Armenia as a free and independent state. A number of issues concerning the Armenian Question were clarified: concerning the mandate, territories, military help and so forth. Ottoman Turkey was obliged to recognize Historic Armenia. Parts of Erzurum, Trapizon, Van and Bitlis states would be passed to Armenia: only 90,000 square kilometers, with an exit to the Black Sea. Mount Ararat, which has great importance for the Armenian people, was included in the mass of the territory, passed to Armenia<sup>9</sup>.

Although only a small part of the Armenian Highland represents Republic of Armenia, both the international and local norms refer to Armenia's historical connection to the entirety of Armenia. Therefore, while mentioning the Armenian Highland, one should not consider only the territories under the governance of Republic of Armenia and Artsakh, but the chain of mountains that are out of the official territories of Republic of Armenia and Artsakh based on the historical heritage.

It is now clear that Armenia's two important symbols -- the Armenian flag and the coat of arms, represent the Armenian Highland both explicitly and implicitly.

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<sup>9</sup> Ահարոնեան Ավետիս «Սարդարապատից մինչև Սևր և Լոզան», Պոսթըն, 1943, 213 էջ, Գլխաւէլ], 1993, 226 էջ, Երևան, 2001, 252 էջ:



Mount Ararat has been depicted on the Armenian national coat of arms since 1918. Mount Ararat was painted in the center of the coat of arms and it has always been a focal point even during the period when Armenia was not recognized as an independent country; for example, during the Soviet regime years. Even when Mount Ararat ceased to be under the control of Armenian governance, it maintained its irreplaceable importance for the Armenian people throughout Armenia's history.

The 1995 Constitution of the Republic of Armenia, along with future revisions and amendments in 2005 and 2015 declared the Armenian Highland as the indispensable Armenian symbol. Therefore, the Constitution of RA raises the importance of the current issue regarding Armenian Highland and its connection to the Armenian people on the accepted belief, and one should understand the supreme and legal power of the Constitution.

To raise the constitutional-legal importance of the stated provisions, the Constitution of the Republic of Armenia included the Articles about the symbols in the first chapter, which is not by coincidence. One can notice the indisputable legal norms regarding both Armenia and Armenian people.

International research shows that every Constitutional norm encompasses a certain degree of supreme power. For example, Article 16 of Constitution of the Russian Federation (part 2) states that no other norm can contradict the norms of the Constitution stipulated in the first Chapter. Even though the Armenian Constitution does not refer to higher legal power of the constitutional provisions of the 1<sup>st</sup> chapter; however, overall supreme legal force of the Constitution of RA and its regulations are declared in Article 5 of the Armenian Constitution. There is no coincidence that norms stipulated in the first chapter should be prioritized. The Constitution specified the fundamental constitutional legal norms in the first chapter thus prioritizing the



utmost importance of those constitutional norms. Moreover, according to the decision of the Constitutional Court of RA (CCD-1081, on April 16, 2013) “Constitution is a self-sufficient document, where the seemingly textual irregularities can be eliminated by making reference (based on) the fundamental values and principles of Constitution”. Fundamental constitutional values and principles are enshrined in the first chapter. Therefore, according to the points, mentioned above, one can conclude that the Articles enshrined in the first chapter of the Constitution have a higher legal force, than other constitutional norms. Symbols of Republic of Armenia emphasizing the Armenian Highland, especially Mount Ararat are represented in the first chapter; thus, also implicitly and explicitly have the utmost legal force (higher than supreme legal force).

To conclude, based on the legal, geographical and cultural-historical analyses, one can undeniably state that the Armenian Highland is not a constituent of the Caucasus Mountain range and region, and as a concept, has a different interpretation in the context. It is necessary to respect the centuries-long Armenian history and its historical-geographical location with its features; one should separate the Armenian Highland from the Caucasus Mountain range and region as a concept and as a reality, especially taking into account the constitutional and legal regulations which guarantee it.

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