

SHAHAMIRS. SHAHAMIRYAN'S "THE SNARE OF GLORY" AS THE DRAFT CONSTITUTION OF ARMENIA OF 1773

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*"The nation itself must be its own king and govern its own country. People must be and remain free, as created by the Lord. ... No one can reign over people, except God"¹
(Shahamir S. Shahamiryan).*

Abstract

In his article "The Snare of Glory or" «The Trap of Ambition" by Shahamir S. Shahamiryan, as a draft of the Constitution of Armenia of 1773», the author, through a general overview and necessary analysis of one of the most outstanding monuments of Armenian legal thought, reveals the deep meaning and purposeful content of this historical and legal document, which shows the true and reliable ways to achieve genuine state-legal independence, freedom and responsibility of the Armenian people, as well as successful ways of its politically independent lawful and expedient state building.

Keywords: Shahamir S. Shahamiryan, "The Snare of Glory", Armenian legal thought, "House of Armenia"

A deep and thorough study of the entire content and a true knowledge of the meaning of the centuries-old, rather difficult and winding history of the Armenian people leads us to the unequivocal conclusion that only a real and true, sincere and voluntary personal and public Divine economy can and therefore should become the true beginning and the successful end of any subsequent long-term and fertile national, as well as Armenian state and legal construction.²This is evidenced by numerous spiritual and moral, as well as historical and legal documents compiled by the best sons of the Armenian nation, among them Sh. Shahamiryan, the author of the famous spiritual and moral, as well as state and legal treatise, presented in the form of a kind of a draft Constitution of the "House of Armenians" titled "Snare of Glory".³

¹ Avagyan 2000: 573.

² Osipian 2014; Osipian 2016a; Osipyan 2018a; Osipian 2019;

Osipian 2020a. ³ Avagyan 2000: 570-583.

“The Snare of Glory” (in Armenian “ՈրոգայթՓառաց”, officially “Armenian Code of Laws for Governing the Country of Armenia”), was written by Sh. Shahamiryan⁴ in Old Armenian (“grabar”) in 1773 and was first published in Madras, India. As a draft Constitution of Armenia («ՀայրցՏնԼս», “House of Armenia”), this constitutional legal document consisted of four hundred and fifteen articles-provisions, which were developed with the substantial support and co-authorship of the author’s ideological and political associates, namely Joseph Emin and Movses Baghramyan (Moses Varlamov), who were from Karabakh⁵ and in their youth studied in the capitals of England and Russia- London and Moscow - and at the time were under the clear and strong influence of Western European, especially English constitutional legal theory and history of state and law.⁶

In the Preface of this draft Constitution of Armenia, as “a ray of light in a dark kingdom”,⁷ the authors called themselves “small and humble servants of the Armenian Country, first of all before God and people, ... desiring nothing for themselves personally, neither power, nor wealth, nor glory but entirely guided by love for their people and for their country”.⁸ It is obvious that it was exactly this sincere love and faith in God and in their fellow man, as well as the best hope for the formation of an independent national state, that were the main driving force of their faithful and fruitful Christian and Armenian legal awareness, law-making, justice and state-building.⁹

The ancestors of the author of the draft constitution under discussion came from Eastern Armenia, from the region of Nakhichevan, and then they moved to Persia in 1605. Shahamir Sultanum Shahamiryan (1723-1797) was born on November 4, 1723 already in the Persian city of New Julfa, founded and built by the Nakhichevan Armenian settlers. At a young age, he decided to engage in entrepreneurship and moved to India, where, after long ordeals and wanderings, he finally settled in Madras, first working as a tailor, then engaging in the wholesale trade of gold and various precious stones. Later he became one of the most educated, wealthy and prosperous people, successfully selling jewelry throughout India. In the seventies of the XVIII century, he first organized and then he himself led his own Armenian patriotic group. His friend Movses Baghramyan, a native of Karabakh, was one of its members. He also managed to set up his own printing house in Madras.

In his mature years, Sh. Shahamiryan fully lived with the idea of the complete liberation of Armenia from Iranian and Turkish rule by carrying out a people’s revolution in his homeland. He sincerely believed and considered that without such national-and-

⁴Shahamiryan 1775; Shahamirov 1786; Shahamiryan 1998; Avagyan 2000: 554, 567.

⁵ Avagyan 2000: 552-553.

⁶ Avagyan 2000: 558.

⁷ Avagyan 2000: 576.

⁸ Avagyan 2000: 570, 584-640.

⁹Osipian 2006; Full text in Armenian: “The Constitution of the Participant to Eternity Gosh” // “Science” of the National Academy of Sciences, 1996. No. 5-12. “Science”. National Academy of Sciences of the Republic of Armenia. Osipian 2021a; Osipian 2022a; Osipian 2022b.

state independence, Armenia, as a country, would never be able to obtain and preserve its centuries-old national identity and its desired and real history. That is why his national-and-patriotic group in Madras soon developed the so-called “Southern Program” of the future state-and-legal structure of the House of Armenia, which differed significantly from the political views of the authors of another, the so-called “Northern Program”, developed by well-known pro-Russian Armenians I. Lazarev and I. Argutinsky, who believed that outside of the Russian Empire and without its centralized control, Armenia simply would not survive physically and politically.

The “Southern Program” assigned the main role in the military-and-political struggle against Turkish and Iranian rule to the then Nagorno-Karabakh regions under the leadership of five Armenian *meliks* (heads of administrative entities). Despite the huge difference between the programs of the “northerners” and “southerners”, they were nevertheless ideologically united by the viewpoint that the real liberation of all of Armenia could and should occur with the necessary help of the Christian, fraternal Russian *tsar* and people,¹⁰ its huge and well-equipped army, and the supposed future state of the House of Armenia should be in “eternal friendship” with Russia.

As one of the active spiritual, moral and political leaders of the Armenian national liberation movement, Sh. Shahamiryan tried to unite around himself all the famous representatives of the Armenian clergy, nobility, the most enlightened and educated class (*intelligentsia*), who mainly had republican-democratic state-and-legal ideas, values and goals. It was these rights-based goals and the means of achieving them that were punctually and normatively set out by him and his friends in his work “Snare of Glory”. Its provisions were to serve as legal foundations of the new national-and-state system and legal order of the future free and independent Armenia, in which all illegal and pernicious remnants of feudalism and serfdom of the dark and humiliating centuries of the long-suffering Armenian people’s life would be canceled by law.¹¹

According to the national liberation and political project of Sh. Shahamiryan and his associates and like-minded allies, the future Armenian state, free from foreign oppression and independent, was to be established on the territory of five melikdoms, self-governing regions of Nagorno-Karabakh (present Republic of Artsakh), which were to be liberated from Persian and Turkish rule through a revolutionary and national liberation movement and possible military-and-political assistance of the Georgian (Kartli-Kakheti) king Erekle II, who descended from the Armenian royal and princely family of the Bagratids, from the royal dynasty of Smbat and Ashot Bagratuni (885-1045).¹² For the successful implementation of this plan, the military-and-political assistance of Christian Russia during the reign of the Russian Empress Catherine II the Great was also expected.

¹⁰Osipian 2007a; Osipian 2007b; Osipian 2007d; Osipian 2008a; Osipian 2016b.

¹¹Osipian 2006; Osipian 2018c; Osipian 2018a; Osipian 2020a.

¹² Avagyan 2000: 573.

According to the presented draft Constitution of the House of Armenians, the Armenian independent state was to be headed and governed, first of all, by a God-loving, God-fearing, philanthropic and conscientious head-president, who was to have a Christian-Armenian origin with constitutional-and-monarchical powers: “Remember, my lord, ... that you, being anointed by God, have been appointed as His right hand for the good of your state. ... Remember that the people were not created for you, but by God’s Providence you were chosen for your people, whose goodness and freedom is your freedom. God created everyone equally free so that they would be governed by good laws, equally fair to the rich and the poor... Remember that the main reason for the death of the Armenian statehood always was the arbitrariness of the kings, princes and feudal lords of Armenia”.¹³

The author of the draft Constitution of 1773 was sure that “if people want to remain free, govern their country themselves, freely dispose of their property and receive honors only in accordance with their virtue, it is necessary that no one rule over them except God and His lawful, expedient and mandatory law”. “In nature itself, a regular order prevails; everything, starting with the life of living beings and ending with the seasons of the year, is subject to a certain objective regularity and order. The same unchanging and mandatory state laws should reign in human society. The inviolable lawful and expedient laws of the state must restrain the changing human nature and soul so that no person would have the opportunity to plot and do evil. People must obey only the true legal consciousness and laws established by themselves, in accordance with their faith in God and nature, for the common good. No one should rule them otherwise than in accordance with mandatory laws. All the officials of the state, “to the extent of their knowledge and innate abilities”, are obliged to be servants of our country, faithful servants of the Armenian people”.¹⁴

The author of the draft Constitution also argued that the law should ensure everyone’s personal and property safety, everyone should be free in his affairs and should be sure that he is the master and owner of what he has. He wrote that among the Christian European peoples there were kings guided by the opinion of their national assemblies (parliaments, Armenian – “խորհրդարան”), as well as the Senate (Armenian – “ծերակույտ”). As good examples he cites, first of all, the nation of democratic Britons, i.e. an example of constitutional monarchy of “Anglo-Saxons” and the freedom-loving republic of North Americans, headed by G. Washington.¹⁵

The author of the draft Constitution notes that the current sad, miserable and bleak state of the Armenian people prompts him, all his like-minded allies and political associates to urgently seek the necessary and legitimate means for the liberation and salvation of the native Armenian people. Fortunately, the Armenian people are not yet in such a hopeless state as the Egyptians, Jews and Greeks, and may still have some

¹³Shahamiryan1775:362, 373. Also Avagyan 2000: 562-563; Baghramyan1772: 51.

¹⁴ Avagyan 2000: 574-575. u

¹⁵Osipian 2018b; Osipian 2020b; Osipian 2021a; Osipian 2022b.

faint hope of their political liberation from under the foreign oppression of people of another faith. In his opinion, the Constitution and inviolable laws can make the liberated and independent Armenians free, responsible and happy, encourage them to perform all necessary and good deeds, motivate them to fulfill their personal and public duty voluntarily and in good faith.

According to Sh. Shahamiryan, Armenians have the same God-given human nature as many other happy peoples of the world. After centuries of slavery and humiliation, Armenians only need to completely get out of the state of habitual spiritual sleep and stupor through their diligence, prayers and labor. Spiritual freedom for every Armenian is the highest law-enforced constitutional goodness and goal.¹⁶ He is sure that the ardent desire of Americans, led by “wise Washington”, to free themselves from British rule is quite natural, “since for a person there is nothing sweeter on earth than freedom”.¹⁷ The author masterfully expressed all these and similar thoughts partly in his various scientific and literary works, including in his letter to the then King of Georgia, Erekle II.

In the same spirit, the Preface of the “Snare of Glory” was compiled, the main purpose of which was to identify the need to create an independent (from Persians, Russians, Turks and other empires) and free (“from slavery and oppression”) Armenian-Georgian state.¹⁸ In this Preface he particularly wrote the following: “At different times, different circumstances carried me to different countries, in which I found myself under the control of the states of other free Christian peoples. ... I found out that among other countries, the most fertile, the most beautiful and chosen country under the sun is the biblical Country of Ararat, which the Lord God made together with its towering mountain Masis.... Just as the paradise of Eden became the foremother where our forefather Adam lived, the same way Ararat and Masis became the second mother, where our second father found refuge - the righteous Noah “whose first descent” took place in the native city of Nakhichevan (in Armenian – “first landing”¹⁹) and in the country of Ararat, ... where to this day the holy Armenian church professes all the sacraments commanded to us by our Christ the Saviour. I trust in the Lord God that He will keep us in perfect love and faith forever and ever. Amen”.²⁰ The independent and free Armenian state was also called by Sh. Shahamiryan “The House of Ararat”, “The House of Armenians”.²¹

It was on this God-chosen and holy biblical place that Sh. Shahamiryan wanted to see his free Christian country and state - the “House of Armenia”: “The country of Ararat and those living in it are the chosen heirs²² who worship the holy Trinity and the One

¹⁶Osipyan 2009c; Osipyan 2010; Osipyan 2011.

¹⁷An excerpt from Sh. Shahamiryan’s work “Snare of Glory”. Avagyan 2000: 562-563.

¹⁸Nersisyan 1990 (ed.): 590; Avagyan 2000: 566.

¹⁹ Flavius Josephus 1996: 14.

²⁰ Avagyan 2000: 570-571.

²¹ Avagyan 2000: 773.

²²According to the Old Testament of the Bible, the Armenian people “descended from the generation of Japheth, the youngest son of righteous Noah after Shem and Ham; and Torgom (Togarmah), Aram, Hayk, Tigran, Armen and other ancestors of modern Armenians descended from Japheth”.

God - their Guardian and Saviour. ... The house whose foundation is laid on the rock of faith in Christ the Saviour will not be useless for the builders".²³Therefore, Divine economy, while "preserving the honor and strength of our spirit" and "to the extent of one's knowledge and innate abilities" (in the absence of extremes and seething passions of "bestial youth", "lazy old age", "bestly and unreasonable deeds"²⁴) should be the beginning of every subsequent Armenian state-and-legal construction.²⁵

Thus, everything that is initially godless, wrong, shameless, selfish or cowardly and therefore unworthy of an honest and reasonable person having the image and likeness of God, does not constitute justice, governance and state, but is the bitter fruit of hypocritical injustice, selfish or slavish fear and people-pleasing (ungodly flattery to people), which abundantly feed the arbitrariness and lawlessness of the so-called "powerful of this world". Thus, true legal awareness, justice and law are an indispensable pillar and affirmation of any lawful state, without which the state is not true and is therefore doomed to self-destruction and quick death.²⁶

Further, in his draft Constitution of Armenia Sh. Shahamiryan writes: "Because of the godlessness, infidelity, betrayal, autocratic power of Armenian kings and princes, their wayward acts and lawlessness, we - the Armenians were not only humiliated, but were also turned into captives of other peoples, into an object of reproach for people, contempt for those who look at us. ...Therefore, none of us would agree to again accept an Armenian king (prince, or commander) over the Armenian people, ...who would have autocratic power, as no person without sin has been born into this world, except for our Christ the Saviour."²⁷

Therefore, it will be a great blessing for us and our country if the entire Armenian nation begins to reign over their house freely, following their nature (author – but they are already afflicted with "original sin"!), destroying guile and envy and greed, ...to become kings over their own country. ... Only the Law of the Lord should be king over us, ...otherwise we will be scattered again and again over the face of the earth".²⁸ Here it should be noted that the author of the draft Constitution definitely had in mind Theodemocracy, i.e. self-government (with the complete absence of "guile, envy and greed" in the Armenians, and with a "pure and good conscience"²⁹) of the Armenian people under the leadership of the supreme Sovereign, Legislator, Ruler and Judge - the Lord God, whose good will is the Right, Law, Justice and Legal order.³⁰

In order to implement all of this successfully, Sh. Shahamiryan publicly calls on all those who believe in Christ the Savior, all the conscious, reasonable, conscientious,

²³ Avagyan 2000: 572.

²⁴ Avagyan 2000: 576-577.

²⁵ Avagyan 2000: 573.

²⁶ Osipian 2007c; Osipian 2020b; Osipian 2022b; Osipian 2022c.

²⁷ New Testament. Epistle to the Romans, 3:23; 5:12.

²⁸ Avagyan 2000: 574-575.

²⁹ Osipian 2015; Osipian 2016b; Osipian 2016a; Osipian 2021b.

³⁰ Osipian 2009a; Osipian 2014; Osipian 2019b.

free and responsible Armenian compatriots to do the following: “We need to build a House of Wisdom for ourselves, erect a pillar of guidance and choose good laws (lawful and expedient) for ourselves with the power of your rational soul and according to the will and desire of the entire Armenian nation, ... since no one, except for your law, drawn up by you, can reign and rule over your affairs, ... so that everyone makes a decision on their own case as they wish, voluntarily accepting both their honor and their punishment”.³¹

The author of the 1773 Constitution of the “House of Armenians” believes that every lawful and expedient state law in independent Armenia must be fully founded and clearly witnessed by the Divine authority and God-inspired power of the Word of God and the provisions of the entire text of the Holy Scriptures.³² Only in this case the saying “the voice of the people is the voice of God” will be true and valid. He asserted that any law-making, law-interpreting and law-enforcement activity of all scientists and ruling lawyers and state advisory institutions (national parliaments, law enforcement bodies and courts) must comply with the objective, appropriate, unchangeable and mandatory laws of God the Creator, and not some illegal, newfangled, rather unsteady and changeable human fiction, various ungodly and worldly willful deeds, selfish obscene lust and ungodly coercive measures.³³

To carry out the process of law-making, the author of the 1773 draft Constitution of Armenians proposes the following methods for the free election of people’s representatives: “We must invite two men from every ten thousand houses of our country, and these two men will be their deputies and will carry out the work of their voters, ...and will also be able to pass laws and sign them, representing the will of the whole country....In accordance with the law, each elected Armenian deputy will receive an appropriate certificate (mandate) confirming his popular election to the highest position, remaining the servant of our entire nation and the defender of our laws. He will become the mouth of the Armenian people ... in the Council of Elders of the Armenian House³⁴ in accordance with the law. His only advantage will be to fulfill his official duties faithfully. ...without fear or need of anyone’s protection, ... he will honor or punish offenders on the basis of the laws and decisions of our court....These are the keys to the gates of our second paradise, the Land of Ararat, and those keys are the strengthened faith, the wisdom of sciences, your laws and the rule of law for the happiness of the people....The fear of harm that unrighteous people can cause you will disappear from your hearts, and everyone will be free to think, speak and believe that everything they acquire is really their own....All of you will become the masters of your property, ... you will be able to devote part of the time of your life to work, exploits, prayers, entertainment, studying and other activities appropriate for a person in our country”.³⁵

³¹ Avagyan 2000: 575.

³² Bible. Old and New Testament. Parables, 9:1; Matthew, 7:24-25; To Romans, 1:1-2; 1:9.

³³ Avagyan 2000: 578; Osipian 2003: 20-25; Osipian 2008b; Osipian 2009b; Osipian 2010; Osipian 2021c.

³⁴ The “House of Armenia” («Հայրհայր»), elected for three years, was to become the highest legislature of the proposed independent Armenian national state, to which the executive branch would be accountable.

³⁵ Avagyan 2000: 579-581.

Further, the author of the 1773 draft Constitution of Armenia calls on all Armenians, “knowing the will of the Lord God and what needs to be done, not to sit idly by, not to be lazy, but to do what needs to be done according to the good will and for the greater glory of the Lord, as well as for voluntary fulfillment of their duty, which is the following: “Those of you who govern the people, instruct everyone born on Armenian land ... to learn to read, write and speak Armenian; fathers of the sons of Armenia, immediately send your sons to study the Armenian language, then teach them how to handle weapons and martial arts and instill law-abidingness in them. Wives, incline your hearts and the hearts of your daughters to take valiant and victorious warriors as husbands, and shame your husbands if they serve other peoples. This help of ours will be enough for the happiness of the Armenian People to shine on the Armenian Land. Amen”.³⁶

In conclusion of our study, we should note that the then Catholicos of All Armenians, Simeon Yerevantsi, considered these and other ideological-political and constitutional-legal projects and plans of Armenian scientists and national patriots not only infeasible in real social and political life, but also very premature and dangerous for the peace and well-being of the entire Armenian nation.³⁷ For this and other reasons, all such national liberation ideas, goals and constitutional plans were subsequently harshly inhibited by the Armenian church and secular leaders, especially after the well-known Treaty of Georgievsk was signed between the Russian Empire and Georgia in 1783, and a little later, already in 1801 the whole of Georgia was officially included in the Russian Empire.

Moreover, as we know, on February 10, 1828, according to the Treaty of Turkmenchay concluded between Russia and Persia, Eastern Armenia (Yerevan Khanate, Nakhichevan Khanate and Ordubad region) was officially annexed to the Russian Empire. According to the then ambassador of the Russian Empire, Lobanov-Rostovsky, “Russia did not intend to allow the creation of another Bulgaria, since ... it needed Armenia without Armenians”.³⁸ That is why all the “southern” and “northern” political, legal and constitutional projects on the creation of “independent Armenia” proposed by the head of the Armenian Apostolic Church, the Catholicos of All Armenians Hovsep Arghouthyan, Sh. Shahamiryan, Lazarev, Khudobashov and other Armenian patriots, were completely and forever rejected, and by the Decree of March 21, 1828, Russian Tsar and Emperor Nicholas I adopted a draft law on the establishment of the “Armenian oblast” governed by the Russian administration, headed by the commander of the Russian Caucasus Forces, Major General V. Behbutov, appointed in 1830.

It seems that the main reason for all such Armenian political and legal failures to restore their independent national statehood lost many centuries ago was the traditional

³⁶ Avagyan 2000: 582-583.

³⁷ Avagyan 2000: 557.

³⁸ Avagyan 2000: 694.

spiritual vices of the overwhelming majority of the godless and self-serving leaders of the Armenian people and ordinary Armenians from generation to generation: on the one hand, almost all Armenians always felt that “every animal loves its own kind”³⁹ and in difficult times they did their best to support each other; on the other hand, Armenians, especially the power-hungry and conceited jingoists, always were and, alas, still remain excessively selfish and provincially limited, they often envy each other, treacherously harm each other and are at mortal enmity with each other.⁴⁰

Moreover, they sometimes prefer powerful and influential people of other faiths and strangers more than their simple, conscientious and gifted co-religionists and compatriots. According to some foreign observers, “there was an unconscious influence of paganism and Islam in Armenia, which was under such a long and painful yoke and “Tatar” customs”.⁴¹ Unfortunately, the majority of modern Armenians still retain some ungodly, unspiritual (more pagan than Christian) and unlawful national customs and habits, which significantly distort and weaken the beneficial effect of their centuries-old true Christian faith, proper legislation, justice and national-and-state legal order.⁴²

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³⁹Bible. Old Testament. Sirach, 13:19.

⁴⁰What kind of internal spiritual vices and obstacles (mental defects and cowardly prejudices) did the majority of Armenians initially and for many centuries have and still have which prevented the conscientious and constructive confession of their traditional Christian faith and did not allow them to live their everyday life in accordance with their faith? It seems that many modern Armenians are characterized by a certain naive, harmless, self-protective, not at all aggressive, but pagan nationalism and provincialism, which are the consequences of spiritual lack of faith, lack of love, pagan ignorance and cowardice, ethnic isolation and narrow-mindedness, insufficient awareness of their own human dignity, their spiritual vocation and life purpose.

⁴¹Bagramyan1786;Beknazaryan2013: 386.

⁴²Osipian2016a;Osipian 2018a; Osipian2019a;Osipian 2020a.

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