



## Some Concepts of Natural Sciences and The Review of the Constitution

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**Abstract:** The ancient and modern scholars link their studies and research closely to the various theories of natural sciences. Natural science deals with the discovery and inquiry of phenomena, of various natural phenomena, the resolution of many unknowns, mysteries, this in the service of mankind. The legal science would be understood, it would make more progress if its writers, scholars, or implementing institutions of legislative, judicial, and executive power would know and apply, even modestly, natural sciences, their bases. In this paper we will see that the review of the constitution is an important democratic instrument for a sustainable stability and where the mobilization of this instrument is dictated by the dynamism and modernization in the country. Questions such as: What is the impact of the review of the constitution? How can we best apply the principles of dynamics to the constitutional review process, how do the dynamic processes influence the reviewing of the constitution and what effects has the dynamism and the constitutional review on the sustainable stability? - will find answers based on both natural and social sciences.

**Keywords:** Natural Science; Review of the Constitution; Dynamics; Stability; Perspectives

### 1. Introduction

The importance of the fundamental act of a country is expressed in what this act represents. The Constitution is the basic law of a country which contains a set of fundamental principles and rules that regulate the functioning and organization of a country. The Constitution contains the appropriate institutional mechanisms for controlling the power so that to protect the interests and freedoms of citizens. The drafters of this fundamental law, keeping in mind the importance of this act, draft this document aiming, among other things, for its longevity. However, understanding and knowing that dynamism is part of life and that many internal and external factors can affect the longevity of the constitution, a constitutional

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review institute is envisaged and applied.

At its most abstract level, the function of reviewing the constitution can be easily paraphrased as: *the protecting the constitutive framework within which the ruling or governing power operates* (Zurn, p. 254). The role or function of the constitutional review process is and should be that of the protector of the institutional framework, not of the destabilizers and of the perpetrators of this institutional framework.

The review of the constitution is the necessary tool for finding or correcting flaws, mistakes, is a mean of changing attitudes, views. The constitutional review institute is a tool for harmonization, adaptation, revolution, evolution, and where the legal culture, economic, social or political situations play their part in the progress and prosperity of the constitutional review process.

Carl Schmitt in his book “Legality and Legitimacy” states that “no norm, neither higher nor lower, cannot be interpreted, applied, protected or preserved ... but by humans and bodies” (Schmitt, p. 54). The reviewing of the constitution on the one hand can play an important role in the stability of democracy, preventing various crises, resolving conflicts, bringing consensus or political stability. On the other hand, the constitutional review process could threaten democracy, violate fundamental freedoms and rights, may put pressure on political rotation, and may bring national or international conflicts, imitation and deviation from reality. It is the individual, the people’s representative bodies that will guarantee the legality and legitimacy of the constitutional review process.

The axis or the groundwork of this paper is the review of the constitution, but this axis is connected and interweaved in this work with the dynamism and stability in the country.

The constitutional system, the rule of law, the democracy or its consolidation, the stability in a country are to a large extent influenced by the initiation or not of the constitutional review process, are influenced by the legality and the legitimacy of the process of reviewing the constitution.

The review of the constitution is an essential function of the legitimate government according to the ideals of deliberative democratic constitutionalism (Zurn, p. 29). It must be the legitimate government the undertaker of the process of constitutional review according to the ideals of deliberative democratic constitution.

The constitutional review institute is a matter that has found a broader approach

both conceptually and comparatively. What is lacking and addressed little or almost not at all in a concise form is the dynamism and the review of the constitution for a sustainable stability. There is a lack of genuine scientific studies of the connection of some natural science-based concepts with the constitutional review. There is a lack of in-depth scientific studies which deal with the issues to be addressed and dealt in this paper. This paper seeks to begin to close the gap that exists with regard to information and knowledge on dynamism, perspective and the review of the constitution for a sustainable stability.

## **2. The Concept of Dynamics and the Review of the Constitution**

The Nature and the Human Being have many mysteries and unknowns in themselves. Some of these mysteries and unknowns about the biosphere, the lithosphere, the atmosphere, the hydrosphere, about the Human Being, the universe, are inquired and discovered by science, natural and social sciences. For the thorough Investigation and Discovery of mysteries, of the unknowns, for the solution of problems and the answering of questions, for the acquisition of knowledge and wisdom we have been served both by the natural and the social sciences.

Natural and social sciences as much as they differ from each other so they can not be understood or developed without each other.

The understanding and knowing of the concepts, phenomena, phenomena of natural science provides, guarantees the prevention or resolution of various problems in the field of social science.

Knowing about Physics, understanding and applying of the Concepts or Principles of Dynamics, of the Phenomena and Laws that relate with them will lead on taking preventive measures or solving problems that may arise or emerge during the constitutional review process.

The review of the constitution is an institute that is closely linked to the dynamic processes in a society and the demand for a sustainable stability, stability that can be economic, political or social, national or international.

Problems, issues related to the stability and flexibility of a constitutional regime are dynamic problems, are *in motion* problems and where these *in motion* problems can be on the positive or negative side.

In Physics we have learned that: *DYNAMICS is part of the mechanics in which are studied the links between the movements and the causes that produces them.* (Shaqiri, p. 84)

*In dynamics, among other things, there are reviewed the causing forces that change the state of movement of any body, by which forces the shape of the body is not changed. The action can be defined in two ways:*

- A) *Accelerates or decelerates a body, respectively to change the state of motion or movement;*
- B) *The forces can change the shape of the body, respectively to deform the body* (Shaqiri, p. 84).

*What is the link between dynamics, forces in mechanics and the constitutional review process?*

Is it not “*force*” exercised during the review of the constitution, force which will bring about change during the constitutional review process? Is it not required an unification and combination of forces in order to have a successful constitutional review process? A successful review of the constitution requires a great combination of social, economic and political forces. If any of these factors are missing the constitutional change, it may fail (Fisher & Harriger, p. 1048). This combination of forces if appropriately implemented will not deform the constitution, but give the right and necessary shape dictated by the dynamism processes of a country.

Is it not determined the “*measure*” of a body by its weight? And the “*measure*” of constitution in our case is determined by the rigidity or flexibility of the constitution being reviewed?

Does not the time factor affects, does not the *acceleration* of the constitutional review process affects the force to be exercised or the combination of these forces?

Given the above, Can we say that  $F = ma$ ? I think Newton’s II Law and its application during the constitutional review process would greatly affect the success of the constitutional review process. Social, economic and political forces must be equal, in accordance with the rigidity or flexibility of the constitution being reviewed as well as with the acceleration of the constitutional reform process.

In physics it is determined that “if the shape of a body changes then there is always a force that acts in that body” and “the forces can affect a body in certain direction” (Shaqiri, p. 71). “The Force can transform a body and the force affects a body to go to a certain direction” (Shaqiri, p. 72). The force with which we will “strike” the changes, the constitution review should be “calculated”, analyzed, observed over and over where as a “reference point” should be taken not only the constitution under review but also the constitutions of other states.

“The causes of change of the state of the body” or the forces causing the necessity of constitutional review must not be such as to destroy the legal order in the country, must not affect the rule of law in a country.

The constitution taken as a “reference point” and the review of the constitution taken as “a moving body” from where the phenomenon of movement and the “driving forces of changing the state of movement” can:

*I. Change the state of the movement, bring constitutional changes or;*

*II. Deform it, causing instability of the juridical order.*

The understanding of the concepts of movement and tranquility in physics, of the concepts of “the referent body”, of “the velocity”, and the causes that “produces” or dictates these movements are very much related with the concepts of “changes” or “reviews” of the constitution. If we interweave and apply adequately these concepts together then most likely we will have the desired results at the end of the review process of the constitution.

Dynamism as a living phenomenon of the daily life, despite the efforts for stability, brings situations that need to be adjusted, changed, due to changing circumstances, ideas or information. Dynamism, the dynamic phenomena that characterize it, in relation to the review of the constitution has affected the latter. The dynamic phenomena affecting the fundamental law of a country and the constitution review institute are:

- Globalization;
- International factor and law;
- Constitutionalism;
- Academic Thinking;
- Social, economic, cultural, political developments - change of perspectives,

conflicts etc., etc., etc.

Dynamism is a phenomenon that has exceeded the state borders, where actually one of the driving forces behind this phenomenon is globalization.

Globalization as a dynamic phenomenon has had an impact on the constitution review institute. Globalization, international factor and law go hand in hand in regards to their impact on the initiation of the constitutional review process in a country. The “International pressure”, the internationals’ right to “lobby” for the recognition of internationally recognized freedoms and rights has had its impact on the review of the constitution and the integration of these rights into the fundamental law of the particular state (*for example an ample number of European Constitution or the ones of the countries that aspire to be EU Member State, have had to remove from their content the death penalty - which this is a positive **in motion force** exercised*).

Modern bureaucracy, the right of compromises, the democracy of words more than works, the unequal law for all are phenomena that jeopardize the initiatives of the constitutional review by hiding behind the phenomena of the dynamism of law.

Reviewing the constitution can be considered as a guarantor of dynamic equilibrium, but if no dynamic equilibrium is maintained then chaos will be inevitable. The law is as dynamic as the world itself, but concealing behind the “calculated” movements of the “destabilizing forces” of “artificial causes” in undertaking a constitutional review would deform the rule of law. *If the acting force of the constitutional review would deform the constitution, **than the countervailing force would strike us, the people.***

### **3. Sustainable Stability and the Review of the Constitution**

***“VALOR IS STABILITY,  
NOT OF LEGS, NOT OF ARMS,  
BUT OF COURAGE AND SOUL”***

*Michel de Montaigne*

The stability and predictability of a national constitution are among its first aims. (Maddex, p. XIV). The infringement of stability, the necessity of new projections, dictates the need for constitutional review so that to put in place one of the first aims of the constitution. Stability in the country largely depends on the stability of

the constitutional order and the latter may be affected by the constitutional review, the methods, the procedures applied, the initiative or the lack of a constitutional review initiative.

The constitutional system, the rule of law, democracy or its consolidation, stability in the country, to a large extent are influenced by the initiation or not of the constitutional review process, from the process itself of reviewing the constitution.

The time factor, the political, social, and economic factor, the national and international factor, according to the circumstances, all or part of them, dictate the necessity of reviewing the supreme law in a country, in function to the stability and consolidation of this state and its institutions.

Legal reforms, reforms towards economic, social and political stability in the country, the rule of law, these and others have had their impact on the sustainable stability of a country and in the process of reviewing the constitution.

From Mathematics we have studied *that stability is not a static phenomenon*, it does not imply immobility, but it is a phenomenon that is related to the stability of something or phenomenon, capable of preserving or regaining the *equilibrium* even after the action of an external “force, phenomenon”. Stability is observed by looking at how quickly a system returns to the original equilibrium position before the external interference changed the original state. *The lack of stability is closely related to the lack of equilibrium.*

***The role and importance of sustainable stability in one country requires asking some questions such as:***

1. What are the forces, phenomena that threaten stability?
2. Who secures the equilibrium during the constitutional review process?
3. Who is, or who are the actors, factors, circumstances, phenomena that measure the sustainable stability of the constitutional review, that maintain the equilibrium?

Given the above, I think that we, the subjects of the art and legal culture, the lawyers, have the responsibility to objectively research, study and play our role in maintaining the equilibrium and guaranteeing the sustainable stability of the constitutional review. We have the duty and responsibility to draft comprehensive studies, scientific papers, recommendations that will serve the theory and the legal practice that will serve to the researchers that will serve to the sustainable stability of the legal order in the country.

As researchers we have foundations, we have the legacy of the ancient scholars and their comprehensive research work.

The ancient and modern scholars associate their studies and research with the various theories of natural sciences. Through them have been discovered and investigated phenomena, answers to many unknowns have been given, mysteries have been solved. Legal science would be better understood if its compilers, as well as the implementing institutions of the legislative, judicial and executive power, would recognize, even modestly, these natural sciences, their bases at least and know how to apply them into social sciences.

According to the theory of stability in mathematics equilibrium are of two types:

1. Stable Equilibrium; and
2. Unstable Equilibrium.

*What distinguishes a stable equilibrium from an unstable equilibrium? What consequences, effects causes one or the other equilibrium?*

In mathematics, about equilibrium, we have studied that what distinguishes these two from each other is the *place* where the object being exercised the action is located, as well as the *force* and the *action* that is being exercised toward the object. If against an object that is in a *Stable Equilibrium* is exercised some force the effect of this action is fluctuation down-to-top or left-to-right. Whereas, in the case of Unstable Equilibrium, e.g for a ball on top of the mountain, even the smallest blow will result in a motion with such amplitude that it can or can not converge the body to its original state, destroying not just equilibrium but also creating a new situation that can be catastrophic, chaotic, or positive and stabilizing.

*If politicians, lawyers, lawmakers, judges, subjects of three branches of government in one country knew and understood the theory of stability in mathematics would better “calculate” their striking time and strength against the legal system, against the stability. If the aforementioned actors would take some time:*

**Firstly**, to observe, investigate in a static state, the constitution, in the state of “relative tranquility”;

**Secondly**, to understand well the difference between a stable and unstable equilibrium before they “strike” the constitution;



**Thirdly**, to properly calculate the time and force that should exercise in the fundamental law of a state;

**Fourthly**, to understand that man does many plans, but only God's plan is realized, (*was not this one of the mindset of the Founding Fathers of Constitution of USA!?!?!?*), **then the deformation of the constitution, the danger of destabilization and the threat to the rule of law would be prevented.**

The loss of political, economic, social, legal equilibrium, at one time or one at a time, affects the stability of the country and tests the strength of the constitution, the functionality of the constitutional review institute, the degree of democracy in the country, the rule of law.

The review of the constitution is the instrument that ensures the return of equilibrium, which guarantees through the instituting of this institution, the restoring of the equilibrium by eliminating the causes of instability, amending, abolishing or issuing new constitutional provisions on the basis of the implementation of the fundamental law of relevant state.

It is said that stability is one of the most important notions of science, as it refers to what we call "reality". Basically, everything has to be stable to be well-observed. (Alexei Sharov, On-Line Lectures). But the *politicians, lawyers, lawmakers, judges, subjects of three branches of government* do not have time to observe the reality with all its complexity, away from rampant imagination dressed with the desire for power, far from hidden legal and political agendas all these to the detriment of the legal order.

#### **4. Perspective and the Review of the Constitution**

In the literal meaning of the term perspective, the purpose of using the perspective is to create an accurate, clear idea about the *length, depth, breadth of something* (Dictionary of Today's Albanian Language, p. 1404).

To draw a thing in perspective means faithfully to render the image formed in our eye (Leonardo Collection, p. 2). The perspective re-creates the reality, creates dynamism, *perspectives forces you to observe.*

Without understanding what a perspective is in itself, it is impossible to make a proper connection of it with the review of the constitution. Once we understand what the perspective is then we will understand its role in the constitutional review

process.

The word **PERSPECTIVE** - derived from the Latin word: *perspicere*, which means looking through, across/athwart of something (Collins Dictionary On-Line). And I say it's hard enough to look through an object and even harder to see across/athwart the dynamic and complex processes, such as the reviewing of the constitution.

Perspective is a science belonging to descriptive geometry and its purpose is to replace an object with its image by transferring information about it on a surface placed between the observer and the object (Leonardo Collection, p. 2).

By now, we see how the reviewing process of the constitution can benefit by the implementation of the perspective art, perspective science.

HOW?

I. Is it not required by the actors of the constitutional review process *to faithfully render the imaged formed "in their eye" by transferring all the information about the review of the constitution?*

II. Is it not required from the actors involved in the reviewing process of the constitution *to faithfully produce changes that correspond to the direct vision?*

III. Is it not required from the actors involved in the reviewing process of the constitution *to faithfully making the transferring from the reality observed (in its length, depth, breadth) to the reality drafted?*

In implementing the concept of perspective, three aspects should be taken into account by direct or indirect actors in the review of the constitution:

**Firstly**, the constitutional review actors should not admit to "borrowing" the eyes of politicians, lobbyists, to look at the issues under review of the constitution. They must see everything with their own eyes, with their logic, with professionalism, where the basis of their activity is the law and the constitution with its provisions.

**Secondly**, the issues subject of the review are necessary to be looked at all possible perspectives as this would ensure precision in drafting new constitutional provisions and would help to prevent as much as possible the unexpected for the future.

**Thirdly**, in the perspective it is important to take into consideration and the so-called "different thinking" *when there is a legal basis to it*. It is vital to adapt, incorporate the "different thinking", when its perspective is correct.

With regard **to the perspective in point three**, knowing in principle that the perspective displays an object, *not necessarily as it is, but just as it appears to the observer*. In regards to the latter I want to emphasize two things:

- Looking at the perspective we have to consider *not only* **WHAT** we look But even **FROM WHERE** we are looking at;
- The perspective *can cause* that two people who are looking the same thing, the same object, to actually see two different things.

**IS IT 9 OR IS IT 6???**



To guarantee a constitutional review through a democratic, legal, comprehensive, lasting and sustainable process, it is imperative that the actors, as part of the constitutional review, will be able to see, to observe, to inquire. The actors of the constitutional review should be competent to use the perspective thinking and not just the one-dimensional or two-dimensional one but the multi-dimensional one, and where their views are in line with reality, the will of the people, with the perspective of the people.

The accurate observation of any phenomenon, factor, issue that is subject to reviewing the constitution by using perspective research guarantees the sustainability, constitutional stability, guarantees the quality of the outcome of the review, whenever this research is objective, untouched by negative external factors such as politics, lobbying, etc.

## 5. Conclusions

The constitution is the fundamental law of a country, is a fundamental law of dynamic character. It is a fundamental act that is a product of previous or existing generations but that belongs to and touches the future generations. The constitution as a democratic act, must, among other things, foresees the institute of the review

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<sup>1</sup> Pictures taken through google search.

of the constitution. Such a right, such a principle is an indication of democracy in a state of law but also of the maturity of drafters of the constitution.

Prior to this research I mentioned that there is a lack of genuine scientific studies of the connection of some natural science-based concepts with the constitutional review. This paper attempted to begin to close the gap that exists with regard to information and knowledge on dynamism, perspective and the review of the constitution for a sustainable stability.

Knowing about Physics, understanding the Concepts or Principles of Dynamics and Phenomena and Laws that relate with them will lead on taking preventive measures or solving problems that may arise or emerge during the constitutional review process.

Natural and social sciences as much as they differ from each other so they cannot be understood or developed without each other.

The social studies and researches when they are interweaved and supported with the various theories and practices of the natural sciences are more precise and thorough studies and scientific research in the literal sense of the word.

Understanding and knowing the concepts, phenomena, and phenomena of natural science provides, guarantees the prevention or resolution of various problems in the field of social science.

The ancient and modern scholars associate their studies and research with the various theories of natural sciences. Through them have been discovered and investigated phenomena, answers to many unknowns have been given, mysteries have been solved. Legal science would be better understood if its compilers, as well as the implementing institutions of the legislative, judicial and executive power, would recognize, even modestly, these natural sciences, their bases at least and know how to apply them into social sciences.

The review of the constitution is the instrument that ensures the return of equilibrium, which guarantees through the instituting of this institution, the restoring of the equilibrium by eliminating the causes of instability, amending, abolishing or issuing new constitutional provisions on the basis of the implementation of the fundamental law of relevant state.

The legitimate government function in reviewing the constitution, should take into consideration the following:

1. *The dynamic situation in a country that obliges/requires change/review of the constitution is related to the initiation of the constitution review institute;*
2. *The force of review depends on the understanding of the importance of inclusiveness of all actors affected by this process;*
3. *The positive result of the review is conditioned by the accuracy of the “drawing” of the constitution’s perspective;*
4. *The accuracy of the “drawing” of the perspective is conditioned by the knowledge of natural and social sciences by all active and passive actors of the review, from the understanding of the perspective by all active and passive actors;*
5. *The perspective of the review of the constitution is or should be the perspectives commissioned or ordered by the people, is or should be an expression of people’s will;*
6. *The product of the review of the constitution should be a visionary one serving the present and future generations, always without being imposed on the latter;*
7. *The success of the constitutional review process is guaranteed if the direct actors of the constitutional review - act entirely on the basis of the implementation of the constitutional law and the laws- if the direct actors of the constitutional review are guaranteed the freedom, trust, legal power in the exercise of their activity;*
8. *Provisions drafted, amended or abrogated by direct actors of the constitutional review are a product of direct observation and hearing of the requests related with the issues subject to review.*

**If the above is implemented then the outcome of the constitutional review will respond to the demand for deliberative democratic constitutionalism.**

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