

Constitutional Amendment between Legal Necessity and Public Demand

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ABSTRACT

The constitution is the supreme legal document in the countries, and therefore legislation, decree, regulation, or instructions cannot be issued contrary to it. Like other laws, when the constitution is drafted, it will have a defect in formulation or an overlooking concerning it. The law put by legislative authority cannot suit and keep pace with this constitution which is subject to falsehood and defection, therefore, it becomes necessary to amend it. Likewise, when the error is from the objective side, meaning that it introduces provisions that are not acceptable to the public or violates the state administration system and / or the state's economic or social policy, etc. the issue of its amendment becomes the demand of the masses, and in view of this public demand and legal necessity, the constitution cannot last as it is. For this problem, we have discussed in our research the study of constitutional amendment and clarification of its nature and types and the restrictions on amending the constitution, and reviewing the case when the public's demand is a case in which to amend the constitution, as well as the case of the legal necessity as a reason for amending the constitution, and then the attempt to determine the importance of each case of legal necessity or the demand of the masses as a reason for amending the constitution.

Key words; constitutional amendment, constitution, legal necessity, public demand.

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Introduction:

The constitution is the supreme law in the country, written by the will of the nation represented in that by a committee that represents all its components and sects, and the constitution is the document that determines the system of government and the political system in the country and defines the authorities in the state and how they are formed and their exerting for their powers and the relationship between these authorities. It also provides on public rights and freedoms that it guarantees to citizens, and thus it determines everything necessary so that the laws can be guided through it and not to violate it.

But when the constitution is written, like any law, it may have drafting errors, deficiencies, or ambiguity because whoever makes this constitution, he is still a human being and he may

have made a mistake. Also, most constitutions are drawn up after a political or revolutionary transformation or a coup, and that may require speeding up to avoid any constitutional vacuum and a desire in reforming the constitutional situation to suit the situation that has arisen. Because of that, errors, deficiencies, and gaps arise and they must be modified in the future.

A certain party that has the upper hand in drafting the constitution may take possession of it and deliberately drafts articles or paragraphs in the constitution to preserve a certain gain for it and to acquire a certain authority which leads to a demand by its people after a period of time to amend these articles.

When there is an error, deficiency or discrepancy in it, the amendment may become a legal requirement, and this demand may be public

if this error affects their rights, freedoms and interests.

The constitutional amendment may be total or it may be partial, and the constitution may stipulate in its body the possibility of amending it according a specific rule, and it may overlook or deliberate that. Here, it appears that it cannot be amended according to the text of the constitution. Therefore, the masses resort to demanding the amendments of the constitution by their own methods.

Importance of the Research:

The importance of research is embodied in the importance of constitutional amendment, and the importance of discrimination: is it a public demand only or is it a legal necessity that must be met because this discrimination will enable us to create a mechanism for constitutional amendment that is appropriate and correct, especially when the constitution does not provide for the possibility of amending it?

Problems of the Research:

The research problem is represented in a group of questions: is the constitutional amendment a public demand? is the constitutional amendment a legal necessity? when does the amendment become a public demand? and when does the constitutional amendment become a legal necessity?

Hypothesis of the Research:

We have assumed in our research that the masses are the ones who write the constitution by their own will, since the masses are the source of the authorities and the will of the nation is the superior, and they have the matter in case they decide to amend it. The legal need for constitutional amendment may become an urgent necessity whenever the constitution contains a legal defect or becomes a legal obstacle in the organization or functioning of the state, the law, freedoms and rights of individuals.

Research Methodology:

We will follow the descriptive analytical approach to analyze the provisions of the constitution and describe them, guided by the views of the constitutional jurisprudence, and then compare with the provisions of comparative

constitutions such as the Egyptian constitution and the Jordanian constitution.

Plan of the Research:

The first topic: introducing the constitutional amendment.

The first requirement: amending the constitution and

First: Constitutional amendment linguistically.

Second: the constitutional amendment as idiomatically

The second requirement: the necessities of amending the constitution

The second topic: the constitutional amendment is a popular demand

The first requirement: the coup

The second requirement: the revolution

The third topic: the constitutional amendment is a legal necessity

The first requirement: the justifications of amending the constitution legally.

The second requirement: constitutional methods in amending constitutions

Conclusions :

Conclusions and suggestions

The First Topic: Introducing the Constitutional Amendment

Constitutional amendment is the most important way to make any change in constitutions because it involves making amendments to the constitution without resorting to abolishing or disrupting the constitution, which has the effect of filling the gap between the political reality and constitutional reality, often the constitutional rules become inconsistent and harmonic with the changes and developments that take place in the political, economic and social conditions in the state(1). This is because the development of material conditions and intellectual doctrines entail a future development in the systems. The system that was good yesterday becomes unacceptable today, and tomorrow it will be an abhorrent(2).

Whereas the constitutional base is like any social organizational base that is affected by the surrounding circumstances affects it, and adapts to the changing and renewable needs of society. Amendment becomes a necessity that the year of development entails, so the idea of amending the constitution obliged the emergence of constitutions and stabilized with their stability(3).

The First Requirement: Amending the Constitution Linguistically and Idiomatically

In this request, we will deal with amending the constitution linguistically, and amending the constitution idiomatically:

First: Constitutional Amendment Linguistically.

What is meant by amendment linguistically is modification, so if something inclined, you would say: I modified it, and if you modified it, it would be straight. So, from this is their saying concerning the modification of months or their recommendation by describing them as being far from inclination in favor of the litigants in the lawsuit. Amending thing means its modification, so it is said: he modified it and it amended., i.e. he amended the inclined thing and it became straight, and everything scraped "muthaqaf" is straight(1).

So, "thaqafah" is the scrape which is the action that makes the spears straight, so its scrape is its being straight and there are many phrases that indicate the meaning of amendment including: revision, review, and restoration, so we mean reviewing, and it is said 'the speech reviewed him'.

Second: The Constitutional Amendment as an Idiom

Amending the constitution means the process that allows changing its provisions, that is, a change in the constitution, whether by introducing a new provision on a subject that the constitution has not previously regulated. It also includes changing provisions stipulated in the constitution by addition or deletion. In other words, the constitutional

amendment is to reconsider its provisions in whole or in part (1). As for the conventional meaning of the amendment, it is to review the constitution by change, substitution, deletion or addition(2).

As stated in the political encyclopedia, "Amending the Constitution" is intended to make a change in the provisions of the articles that make up the basic law of the country or state. The principle of the amendment does not contradict with constitutional supremacy and the prohibition of violating it because people are the source of authority in most of the written constitutions of the world, so they have the right to make amendments permitted by the provisions of the constitution itself and allow them to keep pace with the escalating historical development(3).

From what has been previously explained, we notice that the meaning of constitutional amendment is to review the constitution in part of change, substitution, deletion or addition to its letters, words, or content.

The Second Requirement: The Necessities of Amending the Constitution

Constitutional amendment is regarded as one of the necessities of the constitutions development in order to be in line with the needs of society. Some of the most important necessities for amending constitutions are:

1. Adaptation and Keeping Pace with the Developments and the New Ideas in Society(1):

The prevailing ideologies in society change according to the change in times and conditions, and limited and specific ideas cannot always respond and dominate a constitution. For example, if the constitution is a constitution that stems from a socialist ideology and philosophy in a country, then it is invalid in a time when there is more liberalism as in the Iraqi constitution of 1970, and the constitution of Egypt of 1971. So, the socialist thought was dominating many of its rulings, but as a result of developments and changes in global political equations and the control of the liberal camp, a trend towards free economy is focused in addition to the spread of democratic ideas in society. These ideas and concepts were not present in society when the constitutions mentioned above were issued, and this led to the demand for the need to amend

(1) Muhammad Ibn Abi Bakr Abd al-Qadir, Mukhtar As-Sahha, Department of Dictionaries Lebanon, 1985 R., p. 176.

constitutions in order to keep pace with the new ideas prevailing in society(1).

When the gap between provision and implementation increases, that is, between the provisions of the constitution and what is actually applied in practice, it becomes imperative for the amendment authority to undertake procedures for amending the constitutional rules that do not accord to the reality.

The constitution cannot guarantee lasting and be respected unless it is in line with the reality of the political life of the state and is consistent with the ideas advocated by the people. And if the constitution contradicts the aspirations of individuals in society, then amending it becomes an urgent necessity that cannot be ignored in order to be in line with the necessities of life(2).

2. Filling the Gaps

The constitutional amendment may correct a deficiency in the provision of the constitution that was not taken into account when it was drafted, or new things happen that the constitution did not provide solutions to. For example, the Twentieth Amendment to the Constitution of the United States of America in 1933 which came after dealing with a situation that might occur that was not previously stipulated in the constitution, and it is a case that the president is not finally chosen for one of the reasons such as death or others. This amendment came to fill this deficiency, making the vice president replace him if this particular case occurred (1).

The same is the case when the Treaty of "Maastricht" is concluded among the European countries that enshrined the Treaty of the European Union in Article 8-B, whereby every citizen from a member state in the union is considered a citizen of the union. And this citizenship grants some political rights like the right to vote and nominate in European and municipal elections, and the right to lodge a complaint in front of the European Parliament. Since the European constitutions organizing the union were devoid of a provision dealing with this citizenship and it is limited only to national citizenship, many of these member states have had to undertake a constitutional amendment to face this deficiency in its constitutions and the recognition of European citizenship. This was done in Germany, Spain, France, Belgium, Greece, Italy, Luxembourg and Portugal and these

countries had previously not recognized the status of a citizen who could participate in political elections(2).

3. Redistribution of Constitutional Powers in the Federal State:

Since the authorities are distributed in the federal state between the center and the regions according to the constitution, the constitutional amendment may happen with the aim of transferring these powers between the two parties. The increase in the powers of the federal authority at the expense of the regions may be done through a constitutional amendment and vice versa. For example, the constitutional amendment of 1947 to the Swiss Constitution of 1874, which was issued for the purpose of distributing the powers of the central authority, especially in the economic sphere(1).

Before 1914, the financial resources of the Swiss Federal State were limited to some indirect taxes (customs, telegraph, mail, telephone, and stamp duties).

4 - Development of the Political System and Existing Constitutional Legitimacy:

It happens that there is a development in the political system, so we find, for example, that Napoleon III made important constitutional amendments to the Constitution of the French Empire of 1852 led to the rigidity in the parliamentary system, which then prevailed in France, in transforming the royal dictatorship into a constitutional parliament. According to that, a base of government responsibility in front of Parliament was established - constitutional amendment may be necessary to develop and reform the existing constitutional legitimacy to confront some of the issues that were not mentioned in the existing constitution as a result of the development of political life that needs new constitutional solutions to achieve the higher goals of the state(2).

Therefore, the constitutional amendment achieves the protection of the system and the guarantee of the continuation of its political legitimacy, and even avoiding the political weakness points that may

result from not keeping pace with the constitutional rules of developments and thus the aspirations and ambitions of the people can come

true. Thus, stability of the constitution achieves, consequently, political life will be renewed, which prevents it from entering into any crises that affect the state's constitutional institutions in future.

We find this, for example, in Italy in the late nineties of the last century, where the tremendous development in political aspects made the public opinion lose its confidence in the state's institutions and in the system of government, which resulted in the conviction of the need to make constitutional amendments to stop the deteriorating political situation.

5- Achieving Social and Economic Equality

The Forty-Second Amendment of 1976 which was made to the Indian Constitution of 1945 included the social and economic equality, and social equality meant the abolition of "religious intolerance towards the beliefs of one of the social and ethnic beliefs of Hindus such as color, Christian faith, religion, language ... etc. According to this equality, everyone enjoys the legal equality and suitable opportunities. As for the economic equality, it included the government's endeavor to redistribute wealth in a way that achieves the greatest equality and provides the appropriate level of living for all(1).

The Second Topic: Amending the Constitution is a Popular Demand

Amending the constitution by a public demand is considered as one of the extraordinary ways for constitutions to expire and amend. A common factor that gathers the extraordinary methods of expiring constitutions is that they are done contrary to the existing legal system, i.e. they are not based on any legal provision of the constitution provisions since constitutions do not provide for such methods, because it is unreasonable for an existing system to stipulate how to undermine this system. The extraordinary methods are represented by amending the constitution, eliminating them and stopping them to work in the aftermath of a revolution or a coup.

If the ordinary or normal method is the legal method for abolishing constitutions, then the revolutionary or actual method is the most widespread method. Revolutionary movements, whether represented in revolutions or coups, have played a prominent role in bringing down many constitutions in the countries of our contemporary

world, and this is the case for the constitutions of most developing countries.

The First Requirement: The Coup

Coup is an overthrowing of a military group in the ruling class and replacing it in the affairs of government. Coup takes many forms, in some cases, the army intervenes to impose the government what the former wants without directly participating in government. In another case, which is the most popular case, the army intervenes and takes power, citing the disability of civilians and the misuse of the democratic game, and in some cases, the coup can also happen without resorting to the army directly(1). It should be noted that the coup, although it is most likely to occur with violence and force by using the military force, but this does not prevent it from taking place in a peaceful way, and that happens in the event when the president of the state intends to cancel or suspend the constitution or amend some of its provisions within the limits of his competence for the sake of his own benefit as Napoleon Bonaparte did in 1799 and Napoleon III in 1851 in France, when both of them abolished the constitution and created a new constitution that provided them to monopolize with power and establish a dictatorial rule and some jurisprudence. For example, a President of a republic declares himself president for life while the constitution stipulates that the time of the presidency is four years, or when a president of a state promulgates a law that does not advance the legitimacy of the parliamentary majority ignoring the principles and procedures required by the constitution, or the head of state dismisses one of the members of the Representative Council while this practice must only be decided by a majority of the council members.

The Second Requirement: The Revolution

From a legal point of view, revolution means replacing a new legal idea with another idea to be the basis of the legal system in the human community. As a result, the revolution leads to the establishment of a new legal system and the end of the era of an old legal system that is no longer compatible with the human community.

It has been stated in the Encyclopedia of Politics that most contemporary thinkers use the term revolution to denote sudden and radical changes that take place in social and political conditions when an existing rule and a social and

legal system accompanying to it are changed in a sudden way and sometimes violent for another ruling or changes of a radical, non-political nature, even if these changes are made slowly and without violence as is the case when we say scientific revolution, cultural revolution and artistic revolution, these changes are used to describe comprehensive changes in various areas of life.

As one of the legal consequences of the revolution, once the revolution succeeds, the existing constitution usually falls as well as the governmental bodies. Therefore, the old constitution must be replaced by another new constitution, but a temporary government, that is, a realistic government must be established until a new constitution is put. It was called that because it does not usually receive a legal mandate, but rather derives its authority from reality.

The Third Topic: The Constitutional Amendment is a Legal Necessity

The absolute rigidity of the constitution is unacceptable because if the constitution was rigid, its provisions would have a measure of stability and constancy, so it is illogical for the constitutional system of any country to be characterized by stability and rigidity, so this system must keep pace with the continuous development, which is also imposed by changing circumstances that accompanied the emergence of this constitution. It is seen that the rigidity of the constitution is a relative rigidity and nothing else, for two considerations, one of them is political and the other is legal.

Politically speaking, the constitution which is the core of the constitutional and political system in the state is no more than an expression or reflection of the political, economic, social and cultural conditions at a specific time for a particular society. So, these conditions are naturally changing with time, and therefore it was natural for the political and constitutional system to change by changing these circumstances because it is only a reflection of them, otherwise a gap between the provisions of the constitution and the reality applied to it happens.(1).

From the legal point of view, the idea of the absolute rigidity of the constitution contradicts the principle of the nation's sovereignty because the absolute rigidity means that the nation permanently relinquishes its constitutional power,

and therefore it can no longer completely or partially amend the constitution.

So, it is recognized that constitutions can and must be subject to amendment and the truth is that amending customary constitutions does not cause any problem, because they can be amended by new constitutional norms or by written constitutional documents. As well as with regard to flexible constitutions that can be amended easily by the same procedures that abolish or amend ordinary laws. But the main issue relates to the rigid written constitutions whose amendment requires special procedures and formalities. With regard to this last type of constitutions, the rules for amending them differ from one constitution to another.

The First Requirement: The Justifications for Amending the Constitution Legally

The real problem is not with the competent authority in drafting the constitution, but rather it is related to the reasons that lead to changing the existing constitution. It may happen that the political legitimacy changes in a way that brings it to a new content that is inconsistent with the basic meaning of the constitution as a legal system, leading to the downfall of the constitutional system to be replaced by a new constitutional system. This may be due to the outbreak of the revolution as is the case of the American Constitution in 1787, and the Mexican Constitution in 1917. It may be due to the end of colonialism as in the case of Canada in 1982, India and Pakistan in 1947, and in South Africa in 1997. The issuance of the constitution may lead to the emergence of a new form of the state, as is the case after the end of the Soviet Union and the establishment of the Federal Russia, and after the fall of constitutional systems in the countries that made up the former Soviet Union. After the end of political legitimacy in the countries of the Eastern Conglomeration, a new constitution had to be drawn up for these countries corresponding with the new political legitimacy that these countries have embraced. Before that, there was a desire to make a change that affects the supra-constitutional rules included in the constitution. For this, Article 134/2 of the Constitution of the Russian Federation of 1993 stipulated that the amendment of Chapters 1, 2 and 9 (relating to the foundations of the constitutional system, rights and freedoms, and amendment of the constitution) is not

acceptable. If a request is submitted to change the provisions of these chapters supported by three-fifths of the votes of all members of the representatives of the two councils of Parliament, a constitutional assembly shall be formed to which it is entrusted either to confirm the inability of the constitution to amendment or to draft a new constitution approved by this assembly by a majority of two-thirds of the total members of both councils, or it is submitted to a public referendum (Article 135 of the Russian Constitution) Thus, it shows that constitutions may be canceled and replaced by new constitutions because of a revolution that destroys the existing constitutional system. A constitutional vacuum may also occur with the disappearance of the state under the influence of occupation or war, so setting up a new constitution that governs the country will be inevitable. In Egypt, the 1932 constitution fell with the proclamation of the revolution on 11/10/1952 (1). Then, the 1956 constitution was drawn up through a technical committee whose project was submitted to a popular referendum on 23 June in 1956. As for the current 1971 constitution, the President of the Republic requested, on 20 May in 1971, the National Assembly to lay down its basic principles, so the council formed a preparatory committee and this committee ended up developing a draft of these principles. The National Assembly approved this bill project on 22 July in 1971, and then it was submitted to a public referendum on 11, September in 1971 after it was approved by the General National Congress of the Socialist Union and its central committee(2). The public popular referendum is the mode of the original constitutional authority for the constitution representing the people, owner of sovereign. It is not the meaning of the foregoing that the only way to put a new constitution is through a revolution, a coup, or the like since the original constitutional authority that drafted the existing constitution still has the inherent competence to draft any new constitution.

However, this means that a new political legitimacy will be placed differs from the political legitimacy which stands behind the constitutional legitimacy governed by the existing constitution. This is because the constitutional legitimacy is nothing but the constitutional aspect of political legitimacy. Legitimacy, constitutionalism, and political legitimacy are two sides of the same coin, the first is constitutional and the second is political. Hence, it is not permissible to mix

between the authority of drafting a new constitution and the power of amending the existing constitution even if it has resulted in a major amendment to its provisions. The first authority comes based on a change in the political legitimacy to set up a new constitutional system, while the second authority moves on the basis of constitutional legitimacy in light of the development of the political legitimacy to amend the constitution on the grounds of the existing constitutional system.

In light of the foregoing, we note that although the Sudanese constitution issued in 1998 provided a drawing in Article 139 of the method for amending it, but in 2005, Sudan decided to issue a transitional constitution that referred in its introduction to its commitment to the Comprehensive Peace Agreement signed in January 2005. We note that the Sudanese transitional constitution was issued by the Constitutional Amendment Authority stipulated in the 1998 constitution, which is the Sudanese National Assembly, and it was not issued by the same original constitutional authority that drafted the 1998 constitution, which was formed from the National Assembly and the popular referendum.

In fact, the constitution is not based in its reality on mere provisions it contains, but rather is based on the political decision that it created and which was issued by the original constituent authority. This power is nothing but the political will itself. As Carl Schmidt said in his book on Constitution Theory, "The nation can always give new forms of political existence, and it has complete freedom to determine its political destiny". So no provision whatever it was can build up people, the maximum of what it can do is to contribute to the establishment of a state, and in this way, the political connotation of the constitution, which expresses the will of the people and which determines the political legitimacy, is embodied in a new constitution drawn up by the original constitutional authority if the political legitimacy recedes from the existing constitution. If the matter is limited to developing the political legitimacy on which the constitution is based, then this requires amending the constitution, not changing it so that it can be compatible with this development. It is clear from this method that establishing a new constitutional system is not a goal in itself, rather, it should be a reaction to a change in the political legitimacy and a reflection of a new political legitimacy. So if the existing

constitution expresses this legitimacy, developing its content does not require drafting a new constitution.

The Second Requirement: Constitutional Methods for Amending Constitutions

The authority concerned with amending the constitution has divided jurisprudence on determining the authority responsible for amending the constitution into three directions. The first direction gave the authority of amendment to the people, and the second direction gave the authority of amendment to representatives of the people (representatives of the nation), and the third direction gave the authority of amendment to the constitutional authority established under the constitution.

First: The Authority of Amendment to the People themselves.

This trend was called for by the jurist Vattel, who believed that in order to amend the constitution, all members of the nation (people) must agree to this amendment.

This view is based on the fact that the constitution is no more than an expression of the idea of the social contract that established the political group and not the general authority in it. Therefore, the constitution can only be made by all members of the group. As the social contract is done only by consensus of the will of the group members, consensus must also be made whenever this contract is wanted to be amended or the conditions it contained.

It is clear from this opinion that it leads to the absolute rigidity of the constitution since consensus is impossible to achieve. In the face of this practical difficulty, the author of the opinion, who was satisfied with the validity of the amendment, was obliged to issue an absolute majority of all the people.

Vattel later acknowledged the permissibility of amending the constitution whenever the amendment is stipulated in the body of the constitutional document, considering that the amendment in this case is nothing but an application of one of the conditions of the social contract(1).

Second: The Authority of Amendment of Constitution to the Representatives of the People (the Nation Representatives)

This view was embraced by the jurist of the French Revolution, Sieyes, who went on to say that the constitution is the one that created the basic authorities in the state and determined its specializations, and therefore it is forbidden for the established authority to compromise or insult it by amendment or revocation. And if the basic laws bind the established authorities created by these laws, but they do not absolutely bind the nation, then it has the right to amend them whenever it wanted without being bound in any particular form, for the nation is the owner of sovereign, and in that capacity, it has the authority to issue the constitution, amend it, and cancel it according to the requirements of its life and without being bound by certain procedures(1).

And if the nation has the absolute freedom to amend its constitutions, then it has the right to make this amendment by itself or through representatives acting on its behalf to carry out this task, the elected constituent assembly replaces the nation in making the amendment, and it is independent as the nation equally, and its will is the will of the nation itself, and for this, it can also liberate from every procedural constrain. Accordingly, the constitutional amendment can be done by the direct method with the approval of the majority of the nation (the people), or by the representative way (indirect) by the nation's representatives.

Third: The Authority of Amendment to the Established Constitutional Authority Defined by the Constitution

This method requires that the constitution cannot be amended except by the method specified by the constitution itself, and by means of the authority that a constitution defines for this. This means that it is not permissible to amend any of the provisions mentioned in the document constitutional except by the body to which the constitution has been entrusted to do so, and within the conditions, procedures and rules that must be followed to amend the constitution.

And this is the prevailing opinion in man-made laws, as most constitutions have adopted it. The favor in rising this opinion goes back to the French Philosopher Jean-Jacques Rousseau, who decided that the thing that contradicts the is when the nation imposes laws on itself that cannot draw or amend them, but what is consistent with this nature and logic is that the nation cannot draw these laws or amend them except according to the same official form that it followed when issuing them.

Conclusions:

Through our research, we have come to an undeniable fact that the people are the source of the authorities and the will of the nation is the one who has the right to write the constitution, and thus the will of the people when they find that the constitution needs to be amended must be respected because the constitution is a document that the people created through the mediation of the authority. It is constitutive and thus does not represent the sacredness of the document that the people themselves have drawn up. Rather, the people and the individual are higher and sacred than the constitution, and in a way that cannot prevent the people from exercising their right.

Another fact is that there is a legal necessity to amend the constitution when it is not in conformity with the reality and the economic and social conditions, where in such a case, a large gap between the constitutional reality and the political reality appears, and thus there will be a political failure and a defect in the political situation and state administration and meet the interests and demands of the people.

Conclusions and suggestions can be summarized as follows:

1. The constitution is a document that represents the will of the nation and is established by the people through whoever acts on their behalf.
2. The constitution is drawn up in a specific period of time and specific political, economic and social circumstances. These circumstances may change as a result of development and the passage of time.
3. A constitutional amendment is to evaluate, add, delete, fill in a deficiency or change provisions.

4. Amending the constitution is a popular demand whenever the people see their interest in amending the constitution, or if the constitution needs to be amended.

5. The amendment may be a legal necessity when the constitution does not fit the new political, economic and social reality, so that there is a major defect resulting from the inability to legislate laws that do not contradict the constitution, so the need here becomes legal for constitutional amendment.

6. Amending the constitution takes place in one of two ways, the first is normal, according to the mechanisms and conditions stipulated in the constitution, while the second is in an unusual way, which is the coup or revolution.

Suggestions:

1. Not resorting to put a prohibition on the amendment of the constitution in terms of time and objective, except within narrow limits.
2. Constitution must be drafted or amended by the persons who possess high qualifications and experience among the people.
3. Putting simple conditions by means of which the constitution can be amended when the demand of people is so, as there is no restriction of the people's will.
4. Educating the people about the legal culture in general and the constitutional culture in particular, so that they can exercise these important rights.
5. Preparing important cadres of university professors and experts to qualify them in the field of drafting or amending the constitution.

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