

Original Research Paper

The Gambia at Crossroads: Presidential Pardon a Constitutional Fiat

Ousu Mendy^{1*}

¹ Universitas Atma Jaya Yogyakarta. Indonesia.

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*Corresponding Author:

Ousu Mendy

Email:
ousumendy89@gmail.com

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Abstract: The Constitution of the Republic of The Gambia, 1997 is promulgated with the original intent to be a living constitution with clauses that permit amendments. While a constitution is a legal and political document agreed upon by stakeholders as the principal instrument in governing the affairs of a state, it is a liability in the context of its dependency on what the people want it to 'do' and therefore, convictions based on cogent evidence need to be made from a different squint. Politization of the living nature of a constitution joint with partisan politics and the resolute nature of the political class in securing their 'throne' in democracy expresses the ideology and praxis of presidential pardon as a bait to attract masses to their camps. This research proposes for revisitation of Section 82 of the Constitution in the aftermath of the proclivity of the government to enforce it, notwithstanding the crimes inmates were convicted of. In this research, doctrinal legal research is used and finally concludes that Section 82 is not a constitutional fiat and thus, its application must be guided principally by constitutional ethos and mores in guaranteeing justice through respect and protection of the rights of the people.

Keywords: Constitutional Fiat, Living Constitution, Originalism, Prerogative of Mercy.



1. Introduction

The Gambia's social, political and legal space is at the apogee of having transitioned, and still gradually transitioning from two decades of political turpitude in the form of unconstitutional and incommunicado detention and imprisonment, disregard to court rulings, control of political space, denial of the right to freedom of expression and control of media houses amongst others. One of the outstanding practices during this unfortunate hiccup in the country's sociopolitical dispensation was the weaponization of the law by the government to ensure that what appears to be constitutional and legal at large is a strategic and systematic stratagem of rule by law which was camouflaged as rule of law. This was a successful operation as the court processes were limited to the dictates of this weaponized provisions of the law, notwithstanding the detriment it imposed on Gambian polity. Incommunicado detention was the order of the time as fear was instilled among the people.

Optimistically, the departure of former president, Yahya Jammeh after 2016 presidential election brought what many political commentators call 'New Gambia' representing an era of reemergence and 'fumigation' of the social, political and legal decay of the country. Similar to Kenya's National Rainbow Coalition's removal of the Daniel Arap Moi government in 2002, and Senegal's United in Hope Coalition, The Gambia's Coalition 2016 restored faith in the ability of a unified opposition to defeat the incumbent at the time. The theoretical claim that a cohesive opposition could result in the shifting of political power is supported by the Gambian experience [1]. Like many optimists in Africa, Gambians took it to the street to celebrate with lot of optimism for a better Gambia. Through his ingenuity, Jammeh decided that The Gambia cease to be a signatory to Rome Statute alleging that the International Criminal Court is 'Anti-Africa'. On the other hand, the Yahya Jammeh government has drawn criticism from both domestic and foreign sources for its use of violence against the populace, particularly targeting journalists, LGBT populations, human rights advocates, and members of the opposition [2]. The constitutional doctrine of separation of power was under serious violation as the executive arm of the government constantly undermined judicial decisions. Alliance for Patriotic, Re-orientation and Construction – a political party led by the former president – dominated the legislative arm of the government.

President Adama Barrow established a comprehensive transitional justice process that includes the Constitution Review Commission with the aim of redressing historical injustices and establishing a stable, democratic future. Both the current government and citizens appear to agree that, given the multiple amendments to the Constitution and the several undemocratic provisions, the necessity for a new constitution cannot be over-emphasized. The 11-member Constitution Review Commission released its initial draft of the new Constitution in November 2019 and welcomed public feedback after requesting opinions from Gambians both domestically and internationally [3]. As a new approach to restore the rule of law and democratisation in the country, it sought to create a new constitution that creates freedom for the people. However, no sooner had this process reached the stage of the National Assembly's decision to adopt it or otherwise on 22 September 2020 than the thirty-one of these parliamentarians voted in support of the Constitution Promulgation Bill while twenty of them voted against it making it fall short of the minimum threshold of the two-third majority rule as established by the Constitution. This bill would have repealed the current Constitution and established the 2020 Draft Constitution after the President accented to it. Among the provisions in the Constitution that withstand the test of this attempted constitutional change and making is Section 82 which provides for president's prerogative of mercy popularly referred to as 'presidential pardon' as it is provided in section 128 of the rejected 2020 Draft Constitution indicating that it has not caught the attention of the drafters of the failed draft constitution.

The aim of this research is to make a proposal for revisitation of this section of the Constitution after the proclivity of the current president to enforce it irrespective of whatever crime the inmates are convicted of. It also aims at examining the exhaustion of all the requirements for the enforcement of this provision of the law and whether it is judiciously enforced, and if there is a need for application of a brake in the form of limitation.

2. Literature Review

Under King Ine of Wessex's rule, the prerogative of mercy first appeared on the statutory rolls of the Anglo-Saxon monarchs (668-725 A.D). Section 6 of the Laws provided: "If any one fight in the king's house, let him be liable in all his property, and be it in the king's doom whether he shall or shall not have life" [4]. In certain cases, a wrongful acquittal may entail injustice on par with a wrongful conviction. As a matter of record, the conviction endures beyond the pardon. Pardon

expresses forgiveness and not innocence. An innocent person cannot be pardoned but to petition for rescindment, which is a comprehensive cancellation, not a pardon that leaves the record intact. The President worries about factual errors whereas the courts are concerned with legal errors since the President, as an Executive, does not deal with law. Wrongful convictions are typically eligible for a presidential pardon or prerogative of mercy. This constitutional clause has been used by a few presidents and governors to boost their stature, gain political points, or add lustre to their names. There is an increasing need for caution due to the possibility of condemning the innocent.

Humanity and wise policy work together to urge that the benign power of pardoning should be restricted or humiliated to the least extent feasible. Every country's criminal code is so strict by necessity that justice would appear excessively harsh and sanguinary in the absence of an easy way to grant exceptions for unfortunate guilt. Since one's feeling of duty is usually stronger when it is unbroken, it follows that a single man would be least likely to give in to considerations and most willing to confront the force of those motivations, which could call for a leniency in the application of the law [5]. The President may step in and grant a pardon as a means of "dispensing the mercy of government" in extraordinary circumstances where the judicial system is unable to produce a morally or politically acceptable outcome. This power of pardon is a crucial part of the executive branch. It is in place to shield citizens from potential injustices brought about by erroneous convictions or harsh sentences. However, in recent times, this authority has effectively turned into the President's personal prerogative – a holdover from tribal kingship that is typically retained for the wealthy or well-connected. In most jurisdictions, the power of pardon is essentially unrestricted and uncontrolled by statutory limitations, making it vulnerable to abuse and misuse. Nonetheless, in certain jurisdictions, the pardoning process is guided by customarily established standards [6]. In The Gambia, the current trend of the exercise of presidential pardon is of utmost concern to legal theorists, and this is a compromise to the dexterity of the judiciary.

The presidential power of pardon has been the subject of frequent controversies and reform proposals in many countries, as it is in most common law jurisdictions in Africa. This is because the power is frequently exercised in ways that are obviously inimical to the interests of the people, such as granting pardons to further narrow partisan interests and other personal ends [7]. For instance, the President of the United States is authorized under the Constitution to pardon persons for offenses against the country. The American people have traditionally accepted the use of this power, even in the face of several contentious pardons over the past 50 years, as courts have interpreted it widely. Scholars, activists, and political personalities questioned whether President Donald Trump's pardon of Joe Arpaio – a former Arizona sheriff who had been placed in criminal contempt of court for continuing to illegally hold suspected undocumented immigrants – was constitutional [8]. Ironically, the constitutionality or otherwise of this act of the president is not given significant attention from scholars and legal theorists despite the justice that the courts seek to deliver and the independence that the Constitution accrues to them.

During Jammeh's authoritarian regime in The Gambia, the judiciary became an instrument of the executive and independent-minded judges were sacked by the president. However, in the current administration, such practices are not carried out and the judges exercise their constitutional power over cases they adjudicate and even making ruling against the executive. While this gives a breath of fresh air to judicial independence and promotion of rule of law, the monopoly of the exercise of presidential pardon resides with the president in a system that provides for a committee for its approval or otherwise but somehow, the practices are so straightforward that the effective engagement of this committee is under doubt [9]. This act is not new in The Gambia's politico-legal space but the question that lingers in the minds of many Gambians and indeed international community is whether justice is dispensed. While this research is not oblivious to the ground that criminal justice is predicated on ending crimes and not lives, the question of interpreting a constitution as a living document – popularly called constitutionalism – in dealing with this matter remains unanswered. In certain cases, a wrongful acquittal may entail injustice on par with a wrongful conviction. As a matter of record, the conviction endures beyond the pardon. A pardon conveys forgiveness rather than innocence. An innocent man must seek rescindment, which is a complete cancellation rather than a pardon that keeps the record intact, in order to be released from prison. The President worries about factual errors whereas the courts are concerned with legal errors since the President, as an Executive, does not deal with law. Wrongful convictions are typically eligible for a presidential pardon or prerogative of mercy [10], but convictions based on substantive and cogent evidence need to be viewed from a special spectrum. The politization of the living nature of a constitution joint with

partisan politics and the resolute nature of the political class to secure their 'throne' in democracy exposes the ideology and praxis of presidential pardon as a bait to attract masses to their camps.

3. Methodology

This research engages doctrinal or normative legal research through the use of secondary data. Secondary data are divided into primary legal and secondary legal materials. Primary legal materials include provisions of laws and secondary legal materials are books, journals, and dissertations among others. The main focus of the research is on section 82 of the Constitution of the Republic of The Gambia, 1997. Also, theories are studied, compared and contrast to establish a nexus between the original intent of presidential pardon and its current trend in The Gambia. A judicious nature of the act of prerogative of mercy is assessed from the philosophical point of axiology to determine the value of this act. The judicial interdependence is also assessed from the intellectual squint of constitutionalism as a soul of a living constitution.

4. Finding and Discussion

4.1. Originalism and Living Constitution in Respect to Section 82 of the Constitution

The contentious views held by protagonists of constitutional interpretation as originalists and living constitutionalists narrow down to the intent a constitution is promulgated to achieve. Originalism contends that the meaning of constitutional text is fixed, and it should bind constitutional actors. Living constitutionalism on the other hand, opines that a constitution can and should change in response to changing circumstances. Whichever one chooses, the ultimate desire is to secure the mores of the society. In section 82 (1) of this constitution of The Gambia, the President may, after consulting the committee established on the exercise of prerogative of mercy, grant to any person convicted of any offence a pardon either free or subject to lawful conditions; grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence; substitute a less severe form of punishment for any punishment imposed on any person for any offence; remit the whole or any part of any punishment imposed on any person for such an offence or any penalty otherwise due to the State on account of any offence.

Without an intention to engage in linguistic and philosophical adventurism, the word 'may' in the above cited section of the Constitution is not deontic and therefore, it is not obligatory. Instead, it requires discretionary and judicious approach by ensuring that the act is justiciable and meets the constitutional apolitical requirements without being violated by political interest. The landscape of constitutional interpretation is shaped by several significant divisions. One significant point of contention is the extent to which national constitutions may be interpreted in light of international law. The cacophony reaching its most critical pitch in the realm of legal scholarship has been the reaction, with people expressing anything from cheers and applause to jeers and catcalls [11]. Its application is still debatable, especially when it comes to judicial rulings. Originally, originalism maintained that a constitutional interpretation had to consider the original intentions of the people who drafted or ratified it. This position, however, evolved in the 1990s to hold that the original sense of the constitutional text must be followed when interpreting the document. This is not an attempt to discuss whether strategy of the originalists or non-originalists should use be because application of originalism can, in certain circumstances, be absurd and therefore, it cannot be applied *ex cathedra*.

In one instance, the unexpected news of Associate Justice Antonin Scalia's demise surfaced in mid-February 2016. The United States' justice system was momentarily rocked. With his death at the age of 79, Scalia became one of the few remaining 'stubborn' originalists when it came to constitutional interpretation. Nevertheless, the arguments for and against this staunch originalist's position do not lessen the general consensus that Antonin Scalia was one of the best US justices of the 20th century. According to Antonin Scalia, the text is the least vulnerable to political influence and the kind of constitutional interpretation that comes closest to the original meaning of the document. According to him, the written constitution's text is law [12]. Different perspectives on originalism have been presented in recent work, some of which see it as consistent with judicial activism and living constitutionalism, or as existing within a positivist framework [13]. A constitutional text may be implemented with little extra work if interpretation establishes that it has clear consequences or a clear meaning. However, more work might need to be done throughout the constitutional development process if the wording of the constitution is confusing or has several possible meanings. Conversely, some academics maintain that the original meaning of the Constitution is more definitive than those who support building, or that strong default rules may avoid the need for construction [14]. Therefore,

originalism will be of little service to anybody if originalists do not argue and defend it with an eye toward its implementation and related decision procedures.

Prerogative of mercy as a constitutional edict in The Gambia and the nature of the Constitution as whether a living constitution or “dead constitution” needs to be weighed on the balance of the values of a living constitution. A constitution ought to stand for adaptability in the face of societal difficulties. The majority of constitutions allow for formal revisions to be made to the text. Because of the challenges associated with the formal reform process, constitutionalist democracies have come to the conclusion that formal revision of the constitution cannot be the only means of achieving the desired outcome of ensuring that the constitution satisfies the needs of society, political parties, and individual citizens. Two strategies – originality and dynamism – stand out in this regard. The debate between proponents of the dynamic constitution and originalists raises the possibility of informal constitution reviews and amendments in addition to the formal process [15]. So, does prerogative of mercy provide hope to murderer, or is it an attempt to create social integration and cohesion? What is the intent? Let’s examine that in the subsequent section.

4.2. Axiology of a Constitutional Fiat

It is worth digressing to the nature of values as philosophers have it as axiology. While it is fitting to indicate that the semantic nature of ‘constitutional fiat’ is not a subject of discourse here, it is also important to assess if the value of this ideology is a fiat. A constitutional fiat is any constitutional pronouncement that is an edict, and it is often accompanied by the phrases such as ‘shall’ and ‘it shall be done’ depicting its mandatory and binding nature. The values of a constitutional fiat anchor on the authorities that give life to it. In a textual interpretation of a legal document, the normative intent of a provision must be carried along. In granting presidential pardon or prerogative of mercy, the state intends to align with the intent of criminal justice system to minimise crimes and rehabilitate convicts and persons formally indicted or impeached by legally established institutions from holding public office. It supports the rule for ending crimes and not lives. In section 82 of Constitution of The Gambia, 1997, it provides that, the President may grant presidential pardon after consultation with the established committee for this purpose. The word ‘The President may’ depicts that this is not a constitutional fiat, and it must not always be granted ex cathedra or out of school to avoid misuse of discretion.

In The Gambia, the current practice of this act by the State is gaining a national customary practice as inmates, indictees, and impeached individuals are released to walk the street by dint of this constitutional provision that is circumnavigated to lose credence to the normative values of what it was intended to achieve [16]. The discretionary nature of Section 82 ought to be premised on a strategic balance between powers and rights [17]. The Gambia is currently at the establishment stage of democratisation once more. Though there have been significant advancements in democratic and good governance in the country, there has not been much of a shift in the full-fledged fight against despotism and unconstitutionality. It is impossible to dispute the merits of democracy as a form of government in the context of contemporary politics. Even while it increases the range of political engagement, its expansion cannot be ensured in a state where the rule of law is lacking. The rule of law encourages investment and economic expansion while bolstering public confidence in manners the law is interpreted [18]. When citizens assume responsibility for defending democracy and upholding the rule of law beyond the legalese offered by national and international laws, these aims can be accomplished.

The judicial process of applying the law involves the operative interpretation of the law, which encompasses various crucial stages in its model approach. The process involves four stages: the validation phase involves identifying the sources from which the specific rules are reconstructed; the reconstruction phase follows; the third stage involves combining these formulas into a normative decision basis; and the fourth stage involves reducing this basis into a particular judicial decision [19]. Including interpretation and moral or political values in the standards of legality or legitimate law identification is a central issue of discussion in modern legal theory. Nonetheless, the notion of a legal or normative system, encompassing the nexus between regulations, ethical principles, and interpretation, lacks an equivalent official description. While some contend that this kind of integration distorts the idea of law as a set of regulations, reducing law to an ad hoc, morally charged debate without structure, we think it is feasible to reassemble a formal theory of the legal system that is consistent with theories that are more or less inclusive of the relationship between morality and

regulation [20]. The aim is to avoid an amorphous framework within which many legal theories and values might be assembled to give credence to national jurisprudence.

A constitutional provision that are not fiat in nature requires a judicious act of enforcement by the executive arm of a government by being cognizant of the social, political, historical and cultural underpinnings of the act without exposing the rest of the citizens to the malaise and turpitude that accompany the disarray of these values that are meant to be secured by the state. In this age of proportionality, there ought to be discretion in terms of who is granted pardon with apolitical interest. Many countries recognise proportionality as a general principle of constitutional law, which calls for the government to justify any invasions of citizens' rights, to justify more severe invasions, and to match the severity of the offence with the appropriate severity of punishment. Even when it comes to hotly debated constitutional values, the doctrine of proportionality as it has been established has offered a sound methodological foundation for well-organized and transparent decision-making [21]. A uniform language concerning rights and responsibilities for all arms of government, the ability to shift constitutional law closer to constitutional justice, and the ability to pinpoint the specific democratic process failings that calls for deeper judicial scrutiny are some of the additional advantages of proportionality that ought to be embraced by the state in enforcing constitutional provisions irrespective of their status.

The Gambia is at crossroads in trying to balance between social cohesion and constitutional justice. While a set of people frown against presidential pardon in what they hold as an attempt by the executive to undermine decisions of legally constituted commissions by rendering them futile, another set view it as an endeavour to foster social cohesion and integration. As stated elsewhere, "Gambians have been outraged by their president Adama Barrow's decision to pardon convicted rapists, paedophiles and a murderer who were serving time at the maximum Mile 2 prison, outside the capital Banjul" [22]. It must be appreciated that adhering to the due process of the law as legal certainty is more important than the results achieved. Constitutionality is not just getting the end result but the procedure through which those results are obtained must be questioned. An activist argues that "Pardoning such criminals undermines accountability, which means further discouraging both victims and members of the society as a whole to report such crimes, knowing that convicted perpetrators will not serve their full term, but will eventually be free". This threatens the speaking nature of a constitution as its functions and development of ideas of justice are in the words of Jeremy Bentham, are rendered "nonsense on stilts".

4.3. Reviewing Executive's Clemency

A question that has been posed by many and still awaiting an answer is whether a President's exercise of prerogative of mercy interferes with court's rulings. Another question that begs for an answer is whether there is limit to this act or should there be. These issues prompt many to advocate the revision and creation of limits to the power to this exercise. The third question that is seeking a response is whether clemency promotes social cohesion or disintegration. It is a point to argue that absolute power without limitations for a president to grant pardon places the president above the law; undermine other parts of the Constitution including constitutional rights; violates criminal law; or licenses lawbreaking on the president's behalf. Having already established that clemency is not a constitutional fiat and the outcry of the people on its application, it is difficult to be all-inclusive when examining uncommon and historically noteworthy clemency grants or initiatives; almost every president has probably faced criticism for certain grants that they have granted or have not made. Immersed in a legal and social culture that regarded clemency as a personal virtue, alternative frameworks are explored, carefully weighed the possible drawbacks of such an expansive delegation of authority, and ultimately decided to incorporate the Pardon Power – the exclusive prerogative of the President – into a constitution [23]. It creates a dichotomy between same society as it favours one set. Meanwhile, those who feel injustice is being administered to them through a presidential intervention regard it as an act of political turpitude.

While there ought and should be interdependency among the three arms of government for the purpose of checks and balance the antithesis is also true in terms of noninterference. With a few notable exceptions, the majority of observers believe that the president's pardon authority is unrestricted. It has been proposed elsewhere that there is at least one unforeseen error in this widely held belief. A simple procedural requirement must be met by presidential pardons: they must specify the precise offences for which they are granted. The "specificity requirement" states that pardons with ambiguous or general language are void [24]. Constitutional decay and decadence tend to emanate

from instances such as those and circumstances that are given the oxygen of relevance by state institutions that ought to have served as fumigant against constitutional imbalance. While a constitution is a legal and political document agreed upon by stakeholders as the principal instrument in governing the affairs of a state, it is a liability in the sense that it depends on what and how the people want it to. A speaking constitution must be able to protect the authority it grants an institution it created against an abuse by another institution if only it seeks to be a constitution that is not void of constitutionalism.

But is there a limit, or should there be a limit to clemency? In The Gambia, the president's power to grant pardon for crimes appears to be unlimited. There is no limitation clause in Section 82 or in any other provision of the Constitution that outlines and defines the limit to which the president can exercise a pardon. As a result, the goals and purposes of the juridical power inevitably define and constrain its capabilities. To put it succinctly, all forms of legal authority are subject to inherent constraints that ensure their legitimate utilisation. On the other hand, because dictatorial authority does not originate from an operational legal framework, it is unbridled. Any challenge to the use of any legal power must be supported by arguments that make sense and have a proper bearing on the goals and purposes for which the power is intended. In other words, for an exercise of power to be considered legitimate and within the bounds of its authority, it must accomplish the goals or purposes of the power to some extent. Therefore, giving someone specific authority does not and may not entail giving them complete discretion over how to use that authority [25]. This constitutional silence is a recipe of constitutional decay and an 'invitation to treat' of decadence that will rotten the fabrics of the social, legal, and political extraction of the State.

An authority granted to institutions without detailed limits to which they can operate is an authority that has a high propensity to espouse the society to social disharmony. In The Gambia as it is in most African states, the political space is quite fragile and the people are sensitive to the issues that work against them, notwithstanding their high level of tolerance to live together. This is evident by the myriad of nations welded together to live as a country and paradoxically, the conflicts that emerge in the continent due to ethnic animosity. It is important because in addition to serving as a crucial foundation for establishing justifiable development objectives within a society, strong social bonds are also a necessary prerequisite for addressing the issues that arise during the course of development. Social cohesion promotes processes of change that are advantageous to all parties and strengthens states and communities' ability to withstand shocks [26]. Constitutions are vital tools for fostering and solidifying commitments to national cohesion although constitutional processes are all too often used to clearly further antidemocratic goals or to further the cause of future autocrats by eliminating democratic checks and balances on the exercise of political power [27]. This kind of "abusive" constitutional action can, jointly with political dishonesty, results in political turpitude.

As a country that is rising from the ashes of autocracy and still underdeveloped economically, politically and otherwise, the missing link that needs to propel it to the apogee of development in all ramifications is yet to depart from the peripheral discourse of policymakers. Following the regain of political independence, sub-Saharan African countries underwent several rounds of constitutional reform initiatives. The various countries' desire to guarantee constitutional governance and better handle the intrastate disputes that characterised post-independence Africa served as the driving force behind the desire to transfer power to sub-national governments in sub-Saharan Africa in recent decades. The Gambia started drafting and implementing policies in the late 1980s, despite the fact that reform processes are still hampered by deficiencies in resource underuse and poor stakeholder participation [28]. This setback could not be separated from deficit of constitutional direction and the intrinsic nature of deep state- although it is not very conspicuous in the Gambian case. From the failed or reject 2020 draft Constitution to parliamentary debates on adjustments and modifications of laws, a review of the President's clemency never features in their agenda – an indicator of the extent to which this issue is taken lightly.

5. Conclusion

While politics is the art of the possible, the extent to which a fair playing field is created for all and sundry is key to humanism and cohesion. A constitution as both a legal and political instrument is designed not only to promote constitutionality but also, to guarantee constitutionalism where the powers that be are, inter alia, limited from interfering with the rights of the citizens. As a significant component of a State, the interest of the people ought not to be sidelined by a state institution in ways that are inimical to the ideals of a progressive constitution. President's prerogative of mercy is gaining

‘national customary practice’ in terms of the frequency with which it happens and the unsettled dust it generates as to whether these procedures meet the minimum threshold required by the Constitution.

Law as a tool of social engineering in compelling society towards achieving certain values must be complemented with its social-control mechanism in ensuring that there are limitations in constitutional ethos. Legal provisions that are not fiat in nature must be applied judiciously and must not be applied ex cathedra. This is because this power is frequently exercised in ways that are obviously at odds with the interests of the people, such as granting pardons to further narrow partisan interests and other personal ends. Also, it creates a dichotomy between of the same society as it favours one set of people who feel injustice is being administered to them through a presidential clemency as seen an act of political turpitude. While there ought and should be interdependency among the three arms of government for the purpose of checks and balance the antithesis is also true in terms of noninterference. With a few notable exceptions, the majority of observers believe that the president’s pardon authority is unrestricted, and this is the ultimate cause of the problem constitutionalism, and constitutional developments are averse to. Therefore, presidential pardon must take refuge in constitutional ethos as a principle of justice where the people – including the president – respects beyond majoritarian decision making.

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