

GENERAL THEORETICAL CHARACTERIZATION OF LEGAL DUTIES AS A BASIS FOR UNDERSTANDING THE CONSTITUTIONAL DUTIES OF AN INDIVIDUAL AND A CITIZEN

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Annotation. The article offers a general theoretical characterization of legal duties as a foundation for understanding the constitutional obligations of individuals and citizens. It establishes that the organization and functioning of Ukrainian statehood, along with the establishment and development of a capable civil society, are complex and protracted processes influenced by numerous factors. Given the enormous impact of various aspects on this process, one cannot ignore the human factor, which is the influence of people on the development of statehood and the formation of civil society with all its institutions. This human influence is largely exercised through the fulfillment of constitutional duties assigned to individuals by the Constitution and laws of Ukraine. However, to achieve a deep and comprehensive understanding of these duties, one must begin with the more general categories that underlie constitutional duties. Primarily, this pertains to social duties, and more specifically, to legal duties. Therefore, the article constructs a framework for understanding the duties of individuals and citizens, progressing from social duties to legal duties, and finally to constitutional duties. The first category (social duties) encompasses all obligations a person has within society and towards others, including their associations. These duties encompass both legal obligations, regulated by law, and non-legal obligations, governed by other social regulators (moral norms, religion, customs, and corporate standards). In this context, social duties represent a broad category of modern obligations that individuals owe to other people (an individual), to society, and to humanity as a whole.

Additionally, it should be noted that some social duties, when viewed from a historical perspective, are significantly closer in importance to constitutional duties. Therefore, understanding constitutional duties and their legal nature should encompass both the social nature of social duties and the legal nature of legal duties, while also accounting for the specific characteristics and features of constitutional duties.

Regarding legal duties, the article proposes defining them, based on established scientific principles, as a type of social duty established in the interest of society through binding and prohibitive legal provisions. These duties are realized through lawful behavior, including fulfillment and compliance, and deliberate non-fulfillment of these duties incurs legal liability. This definition is universal and applies both to the basic constitutional duties and to duties established by other branches of law.

Key words: social duties, legal duties, constitutional duties of an individual and a citizen, the Constitution of Ukraine, binding and prohibitive rules of law, direct forms of implementation of the rules of law.

1. Problem statement.

The organization and functioning of Ukrainian statehood, the formation and development of capable civil society structures are complex and lengthy processes that depend on various aspects. Given the

enormous impact of various factors on this process, one cannot ignore the human factor, which is the influence of a person on the development of statehood and the formation of civil society with all its institutions. This human influence is not least exercised through the realization by a person and a citizen of the constitutional duties assigned to them by the Constitution and laws of Ukraine, the doctrinal aspects of which remain an open question. However, for a deep and comprehensive understanding of the latter, one should start from the more general categories on the basis of which constitutional duties exist. These are, first of all, social duties and, more specifically, legal duties.

2. Current state of the problem elaboration.

The study of legal, including constitutional duties, was carried out by such scholars as O.V. Biloskurska, V.V. Bohutskyi, L.O. Hamaniuk, Ye.I. Hryhorenko, T.I. Hudz, O.P. Karmaniuk, Yu.M. Kolomiyets, Yu.V. Kyrychenko, O.H. Kushnirenko, V.F. Pohorilko, S.P. Pohrebniak, V.O. Seriohin, D.I. Syrota, L. Letnyanchyn, O.V. Petryshyn, S.P. Ponomariov, M.M. Tyshchenko, Yu.M. Todyka, N.T. Tunian, etc.).

3. The purpose of the article is to analyze the general theoretical aspects of legal duties as the basis for understanding the constitutional duties of an individual and a citizen.

4. Main material presentation.

As an active subject of law, an individual, by exercising their rights, freedoms, and legitimate interests, has the potential to significantly influence the development of social relations and establish new standards of interaction between the state, society, and individuals. Indeed, human rights and freedoms offer a broad scope for personal self-realization and foster dynamic and innovative societal development.

However, among the traditional legal forms of direct realization of human rights, there are not only authorizing norms that enable individuals to satisfy their legitimate interests. It is also about the need to fulfill and comply with those norms that are binding and prohibitive. Due to this type of legal norms and their corresponding forms of direct implementation, a special legal phenomenon is formed – legal duties of an individual and a citizen. It should also be considered that this general legal phenomenon, which provides the key to understanding constitutional duties, is based on the category of social duties.

Taking into consideration the universal human context, social duties can be understood as all those duties that a person has in society and in relation to other people (human beings) and their associations. These duties include legal duties regulated by the law and non-legal duties regulated by other social regulators (moral norms, religion, customs, corporate norms, etc.). From this point of view, social duties are a fairly broad category of modern aspects of a person's obligations to other people (an individual), society and humanity as a whole. As noted by Ye. I. Hryhorenko, at the present stage of development of the world community, the significance and importance of proper fulfillment of duties is not only not decreasing, but, on the contrary, is increasing. This problem is related to the existence of a certain imbalance between the rights and obligations of a person and a citizen in different countries of the world, including Ukraine, as well as the existence of a significant imbalance between these categories at the international level. Factors of international instability, such as separatism, regional extremism, and international terrorism, are also making themselves felt, and they are increasingly acquiring transboundary features and at this stage cannot but concern any state and social community [2].

However, the concept of "social responsibilities" extends far beyond the legal frameworks of later societies, tracing back to pre-state human development. This includes the organization of primitive communal systems based on fundamental norms rooted in customs and taboos, rather than established law or morality. Therefore, we cannot agree with T. Popovych's view assuming that social duties emerge with the advent of early morality in human society [3, 73]. For instance, the duty

to maintain the communal fire, which was crucial for the tribe's survival, was a purely functional obligation regulated by customs rather than morality, and predates the development of moral concepts in primitive communal systems.

In this regard, social duties are the primary basis of legal obligations. At the same time, some social duties, which, for example, existed within the primitive communal system, and on the proper implementation of which the survival of the family depended, can be seen as a prototype of not just legal duties, but their special type – constitutional duties. Undoubtedly, back then there was no law and mono-norms, merged together, did not differ in the degree of significance, but the duties themselves already had such specificity. For example, in modern conditions, the survival of society depends on the quality of realization of the constitutional duty to defend the Motherland. The latter aspect clearly indicates that the leading and most important duties on which the survival of the family depended and which existed within the primitive communal system are the prototype of constitutional duties due to their existential significance for society, individuals, etc.

In this regard, the following chain can be built in relation to an individual and a citizen: social duties – legal duties – constitutional duties. However, some social duties that existed in the historical retrospective are much closer to constitutional duties in terms of their significance. Therefore, in characterizing constitutional duties and understanding their legal nature, one should take into account both the social nature of social duties and the legal nature of legal duties with the addition of their own specifics and features of constitutional duties.

Legal duties and the specifics of their legal nature can be further characterized by the following features. Firstly, legal duties as duties realized in society are a type of social duties. Secondly, these duties are termed legal because they are established at the legal level, which is typically national rather than international. This conclusion is supported by analyzing both historical legal documents, which often emphasize the duties of individuals, and contemporary legal acts and other sources of law. Additionally, when establishing legal obligations, it is important to consider all legal acts of any level of authority, ranging from local bylaws to national laws and the Constitution.

Thirdly, legal obligations are established at the legal level primarily on the basis of such norms as binding (legal norms on the basis of which the state imposes on subjects the respective obligations to perform certain actions [4]) and prohibiting (legal norms that establish a ban on performing certain actions [4]). With regard to the latter type of legal norms, they also establish obligations to refrain from certain actions, which includes constitutional obligations. At the same time, prohibiting norms are known to be realized through such a legal form as compliance. Indeed, among the generally recognized constitutional duties, there are duties that are realized within this form. For example, the obligations set forth in part one of Article 68 of the Constitution of Ukraine [1] that everyone is obliged to strictly observe the Constitution of Ukraine and the laws of Ukraine, not to infringe on the rights and freedoms, honor and dignity of other people. In this regard, from a behavioral point of view, duties are spoken of as a model of required behavior. Fourth, from the perspective of the subject matter of our study, it should be noted that legal duties, unlike constitutional duties, cover a much wider range of issues and relate to all areas of social relations regulated by law.

Fifthly, when characterizing legal duties, it is important to consider the fact that law regulates only social relations which are important from the point of view of the State and society by transforming them into legal relations, leaving aside social relations which are not subject to legal regulation. Thus, a distinctive feature of legal duties against the background of other social duties is their universal nature, important social role, and the possibility of social control and official measures in case of their failure to fulfill them.

We believe that the features outlined above form the foundation for constructing the legal framework for constitutional duties of individuals and citizens. In addition, it is essential to consider the features of both social duties and those that belong to the category of legal duties. Regarding legal duties, we maintain that, considering the features outlined above, they can be understood as a category of social duties established for the benefit of society through binding and prohibitive legal provisions. These duties are expressed through lawful behavior, including performance and compliance, and deliberate non-fulfillment of these duties incurs legal liability.

The given definition is universal and applicable both to the understanding of basic constitutional duties and duties established at the level of other branches of law: labor duties, environmental duties, duties in the information sphere, procedural duties, etc. Thus, the concept of constitutional duties should be based on a general theoretical approach to legal duties, take into account constitutional and legal specifics and allow to distinguish constitutional duties from legal duties established by current sectoral legislation. It is no coincidence that the constitutional and legal doctrine is dominated by the approach that constitutional duties are a type of legal duties. In this regard, the formulations concerning constitutional duties should be dominated by the features of legal duties formulated within the general theory of state and law, but with an emphasis on constitutional specifics.

Therefore, we consider it necessary to emphasize those features which, by complementing, developing and strengthening the features of legal duties (or at least not contradicting them) and reflecting the constitutional and legal specifics, reflect the peculiarities of the constitutional duties of an individual and a citizen. Methodologically, we will derive such features on the basis of a thorough analysis of the relevant binding or prohibiting provisions of the Constitution of Ukraine, taking into account the provisions of current legislation, and relying on the achievements of constitutional and legal doctrine. In addition, we consider it necessary to pay special attention to a thorough and in-depth analysis of the legal positions of the Constitutional Court of Ukraine, as these can provide answers to the necessary questions and significantly enrich the constitutional and legal doctrine in terms of constitutional duties of an individual and a citizen.

5. Conclusions.

Based on the above, legal obligations should be understood as a type of social duties established for the benefit of society through binding and prohibitive legal provisions. These duties are realized through lawful behavior, including performance and compliance, with legal liability imposed for deliberate non-fulfillment.

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