



Man and Citizen Duties: Review of American State Constitutions

Mariya V. Chistyukhina¹, Alevtina E. Novikova², Anatoly V. Shapovalov³

Olesya O. Tovstukha⁴, Evgeniy V. Aristov⁵

1, 2, 4 Belgorod State University, The Belgorod Region, Russia

**3. Federal State-funded Educacional Institution of Higher Professional
Education «Kuban State Agrarian University», Russia**

**5. Federal State Budgetary Educational Institution of Higher Professional
Education «Perm state national research University», Perm, Russia**

ABSTRACT.

The article presents the author's analysis of the constitutions of the American countries for the purpose of their norm determination regulating various aspects of duties of a person and a citizen. The results are systematized in the form of standard and original type lists of personal responsibilities in the American states; the specifics of their constitutional formalization is revealed.

Keywords: duty, observance of laws, payment of taxes, defense of the motherland, military duty, environmental protection, electoral duties.



1. INTRODUCTION.

The duties of a person and a citizen make an integral part of a person's legal status. Their modern characteristics is contradictory in terms of constitutional consolidation and scientific interest. Thus, in the first case, one of the tendencies of world constitutionalism development in the sphere of a person and a citizen legal status regulation is the expansion of the constitutional catalog of individual duties [1, p. 22-25]. And the legal doctrine pays less attention to the duties of an individual in comparison with subjective rights [2, pp. 298-302; 3, pp. 352-3562.].

Proceeding from the abovementioned thesis, the constitutional formalization of individual duties in different countries is of scientific interest. This study is devoted to the group of American constitutions. Let's specify that the norms on the duties of a person and a citizen are not found in the US Constitution, as well as in the Constitutional Acts of Canada.

The research attention to the consolidation of duties in the constitutions of the Latin American countries is conditioned by the specifics of their adoption. So, the formation of the constitutions of Latin American countries was exerted by the foreign armed forces, as a rule. Another entity that influences the constitutional law in these states is the Catholic Church. It is actively involved in public administration.

In Latin America, the army has a longstanding tradition of an active and often a decisive influence on the functioning of the entire state machinery, the political life and the adoption of basic legal documents [4; 5, pp. 633-659; 6, pp. 411-441].

The heterogeneity and a poorly developed social structure of the Latin American society are also the determining factors of these states constitutional development.

2. METHODOLOGY.

The research was based on a dialectical approach to the disclosure of legal phenomena and the processes using general scientific (system, logical, analysis and synthesis) and private-scientific methods. The latter are represented by formal-legal, linguistic-legal and comparative-legal method, which were collectively used to identify the regulations governing the duties of an individual. The focus group was made of 15 American states, whose constitution texts were taken from the Internet library "The constitutions of the states (countries) of the world" (<http://worldconstitutions.ru/>).

3. DISCUSSION AND RESULTS.



The analysis made it possible to conclude that the constitutions of Latin American states contain the provisions on the duties of a person and a citizen formulated in one article (for example, seven duties in the Article 13 of the Constitution of Guatemala, Costa Rica, Mexico and Nicaragua) or in a number of separate articles (Argentina, Bolivia, Haiti, Honduras, Costa Rica); ordered in the framework of special chapters / sections (Brazil, Venezuela, Cuba) [7].

Due to the fact that the constitutional statements of Latin American states are distinguished by the prevalence of detailed provisions of the universal, species and subject aspects of man and citizen duties, we consider their disclosure to be expedient in terms of standard and original varieties of such duties, as well as their general / universal provision listing.

So, the provisions of a universal nature about the duties of a man and a citizen, are represented by the following:

- The equality of duties among all citizens (Article 40 of the Constitution of Cuba);
- The equality of duties among men and women (Article 5 of the Constitution of Brazil);
- Equal duties of men and women related to the marital community (THE paragraph 5, Article 226 of the Constitution of Brazil, Article 77 of the Constitution of Venezuela).

Similar provisions within the framework of family relations are presented in art. 88 of the Constitution of Guatemala and Art. 35 of the Constitution of Cuba.

Substantially the statement of the Art. 57 of the Venezuelan Constitution, formalizing family relations based on equality, including the duties of family members (not just spouses) is more extensive.

- The equality of duties among all children (the Article 134 of the Bolivian Constitution);
- The law as the source of person and citizen duties (the Article 50 of the Constitution of Colombia);
- The provision of person obligations fulfillment by the socialist state (the Article 8 of the Constitution of Cuba);
- The punishability of any action that interferes or restricts the performance of civil obligations (Article 27 of the Constitution of Guatemala);
- the non-exhaustive nature of individual duties. For example, the Art. 126 of the Nicaraguan Constitution determines that the list of rights, duties and guarantees



established by the Constitution does not exclude other rights, duties and guarantees inherent to a person or those that follow from the established form of government.

Art. 23 of the same Constitution, specifies the duty of Nicaraguans to comply with all other provisions of the law, which also gives the grounds analyze the list of additional responsibilities to the Constitution.

The standard varieties of person and citizen duties in the considered group of Latin America state constitutions are represented by the following ones.

- The compliance with the norms of the Constitution, legislation and other normative legal acts (Article 131 of the Constitution of Venezuela, Article 13 of the Constitution of Guatemala, Article 10 of the Constitution of Colombia, Article 18 of the Constitution of Costa Rica, Article 65 of the Constitution of Cuba, Article 23 of the Constitution of Nicaragua). At that, the Art. 333 of the Venezuelan Constitution records the additional duty of every citizen empowered to do so or not, to assist the operation of the Constitution restoration.

Only the Art. 39 of the Constitution of the Dominican Republic states the mandatory nature of laws for all residents after their publication;

- The service and the protection of Motherland and associated institutions (Article 13 of the Constitution of Guatemala, Article 18 of the Constitution of Costa Rica, Article 23 of the Constitution of Nicaragua).

The Art. 130 of the Venezuelan Constitution establishes the obligation of Venezuelan citizens to respect and protect their homeland, its symbols and cultural values, to protect its sovereignty, nationality, territorial integrity, self-determination and the interests of the nation.

According to the Art. 14 of the Constitution of Honduras, every Honduran is required to protect the Motherland, respect the authorities and contribute to the strengthening of the State and its economic and spiritual prosperity.

Let's pay attention to the solemn formulation of the Art. 64 of the Constitution of Cuba: the defense of the socialist motherland is the greatest honor and the highest duty of every Cuban.

The declared obligation in the art. 31 of the Mexican Constitution (cl. III) seems to be interesting: to be enlisted and serve in the National Guard, in accordance with the relevant



organic law, to ensure and protect the independence, the territory, the honor, the rights and the interests of the Motherland, as well as for internal peace and order.

- Military service (article 171 of the Constitution of Bolivia, article 143 of the Constitution of Brazil, article 147 of the Constitution of Haiti, article 171 of the Constitution of Honduras, article 64 of the Constitution of Cuba, article 5 of the Constitution of Mexico, article 320 of the Constitution of Nicaragua).

Art. 21 of the Argentine Constitution provides for the performance of military service by any Argentine citizen for the protection of their homeland.

As a rule, the wording of military service duty in the considered constitutions is brief, but there are the exceptions with the explanations. For example, the paragraph 2 of the Art. 143 of the Constitution of Brazil, along with the standard formulation of military service specifies that women and clerics are exempt from compulsory military service during peacetime and other duties may be given to them.

We emphasize that this group of constitutions does not contain the provisions on alternative service in relation to military duty.

- The payment of taxes and other public services (Article 21 of the Constitution of Bolivia, Article 133 of the Constitution of Venezuela, Article 13 of the Constitution of Guatemala, Article 18 of the Constitution of Costa Rica, Section IV, Article 31 of the Constitution of Mexico, Article 23 of the Constitution of Nicaragua).

The norm of Art. 78 of the Constitution of Honduras is not like other constitutional provisions, which does not provide such an obligation directly, but determines that only Congress establishes taxes and other public duties.

- The protection of the environment (Article 41 of the Constitution of Argentina). Let's note that this duty is formalized only by 3 states. There is the variation of the environment protection duty for the benefit of living and future generations which is assigned to public authorities and to society (Article 225 of the Constitution of Brazil).

The duty of each generation to protect and maintain the environment for its own good and for the future of the world in the art. 127 of the Constitution of Venezuela is presented more widely on the consequences.

- The duties in relation to property. As a rule, the short norm is that property obliges / entails obligations (Article 15 of the Constitution of Haiti, articles 65-67 of the Constitution of Nicaragua, Article 30 of the Constitution of Colombia) or an owner has



duties (Article 124 of the Constitution of Guatemala). The setting may also contain the prohibitions and the regulations concerning property. For example, it can not be used to the detriment of common interests. The owner of the land should cultivate soil and protect it from erosion, in particular (the Article 15 of the Constitution of Haiti).

- The assistance, the education and the development of underage children by parents (Article 229 of the Constitution of Brazil, article 76 of the Constitution of Venezuela). Within the framework of this version of duty, the variations are also observed: the Art. 53 of the Constitution of Costa Rica determines that parents have the same obligations as for illegitimate children so as for the children born in marriage.

Art. 37 of the Constitution of Cuba recorded the duty of parents to support their children and to promote the protection of their legitimate interests and the fulfillment of their just aspirations, and to promote their education and comprehensive upbringing as useful citizens prepared for the life in a socialist society.

- The assistance of old parents by adult children in case of need or illness (Article 229 of the Constitution of Brazil). A similar obligation is fixed in the art. 76 of the Constitution of Venezuela in case of parental disability.

This duty differs in art. 37 of the Cuban Constitution by short formulation - children are obliged to respect their parents and help them.

- The participation in the voting with regard to the forms of direct democracy in the state and related electoral duties. This is for the people who have reached the age of 18, and this referred to in paragraph 1 of the Art. 14 of the Constitution of Brazil.

The Art. 27 of the Constitution of Honduras, records the participation in the vote as a public duty, the waiver of which can not take place.

According to the Art. 30 of the Constitution of Guatemala elections are mandatory for those who can read and write and are optional for the illiterate ones.

The Art. 33 of the Nicaraguan Constitution also set out the duties of citizens to register in electoral lists, vote in popular elections and hold official posts, except for the cases when the law exempts from them. At the same time, it is specified that women carry out an active electoral right in accordance with the law on this issue.

In accordance with the Art. 5 of the Constitution of Mexico, the post of municipal adviser, as well as the positions held during people's elections (direct or indirect ones) is compulsory within the limits established by relevant laws. The responsibilities in



connection with the elections and people's censorship are compulsory ones and free of charge. Further, the definitions are specified in the art. 36.

- The obligation to work (Article 87 of the Constitution of Venezuela, article 93 of the Constitution of Nicaragua). In Art. 56 of the Constitution of Costa Rica, labor is declared both by human right and by its duty towards the community.

Art. 13 of the Constitution of Guatemala formalized the duty to work for civil, cultural, economic and social prosperity of the state.

Labor is a social obligation according to art. 17 of the Constitution of Colombia.

The article 44 of the Constitution of Cuba has established that labor is the right, duty and honor of every citizen in a socialist society.

- The obligations of foreign citizens (Article 19 of the Constitution of Costa Rica). According to Art. 14 of the Constitution of Guatemala, the foreigners from the moment of their arrival on the territory of the Republic are obliged to respect the authorities, pay taxes, obey laws and regulations. The content of the standard art. 24 of the Constitution of Nicaragua is similar one.

A smaller number of duties in relation to foreigners is listed in art. 15 of the Constitution of Honduras (respect the authorities and comply with the laws).

- The duties of employers in relation to workers (Article 116 and 222 of the Constitution of Guatemala, paragraphs XXI and XXII, article 123 of the Constitution of Mexico).

Art. 66 of the Constitution of Costa Rica specifies that every entrepreneur is obliged to introduce the necessary measures of hygiene and labor protection at his enterprise.

- The obligations of a rural employer (Article 233 of the Constitution of Brazil).

The original varieties of man and citizen duties are revealed by us in the constitutions of Brazil, Venezuela, Cuba and Mexico. These duties include:

- the restoration of the damaged environment by the means of technical solutions required by a competent public authority (paragraph 2, Article 225 of the Constitution of Brazil);

- extraordinary taxes in case of war with foreign states or its immediate threat (they are canceled gradually once the grounds for their introduction cease) according to the art. 154 of the Constitution of Brazil. It should be noted that the obligation to pay taxes is not found in this Constitution via a typical formulation;

- the duty of everyone to fulfill their social duties responsibly and in solidarity in the political, civil and public life of the country, ensuring and protecting human rights as the



basis for a joint democratic life and the social peace of everyone (Article 132 of the Constitution of Venezuela);

- the duty of everyone to promote civilian or military service necessary to protect, preserve and develop the country or to participate in the solution of catastrophic situations according to the law (the Article 134 of the Constitution of Venezuela);

- the protection of national security is the responsibility of Venezuela citizens, as well as individuals and legal entities, the subjects of public and private law applied in the national geographical space (Article 322 of the Constitution of Venezuela);

- the duty of each is to protect state and public property, observe the discipline of labor, respect the rights of others, comply with the rules of socialist community and fulfill civil and public duties (Article 63 of the Constitution of Cuba);

- to oblige children or the persons under the age of fifteen years to attend public or private schools for primary education and military training during the time established by the law on public education in each state (Section I, Article 31 of the Constitution of Mexico).

4. CONCLUSIONS.

The analysis of the American state constitutions made it possible to form an idea of the various aspects of an individual duty record in them.

The stated constitutions formulated the provisions on the duties of a person and a citizen in one article (for example, seven duties in the article 13 of the Constitution of Guatemala, Costa Rica, Mexico, Nicaragua) or in a number of separate articles (Argentina, Bolivia, Haiti, Honduras, Rica), are arranged within the framework of special chapters / sections (Brazil, Venezuela, Cuba).

Substantially revealed responsibilities of a person and a citizen are represented by the provisions of a universal nature, as well as by standard and original (it concerns only Brazil, Venezuela, Cuba and Mexico) varieties of such duties.

The constituent acts of the North American states do not contain the provisions on individual duties.

REFERENCES

Alebastrova I.A. 2016. Constitutional duties of a man and a citizen: the importance and development trends. Constitutional and municipal law. # 12. pp. 22-25. (in Russian)



- Gavrishov D.V., Guseva A.A., Kosolapova N.A., Markhgeym M.V., Novikova A.E. 2017. Foreign experience of constitutional regulation of the right to information. *The Turkish Online Journal of Design, Art and Communication*. April. Special Edition. pp. 298-302.
- Kornyushkina A.Yu., Markhgeym M.V., Novikova A.E., Doronina O.N., Zajcev S.Yu. 2017. Minimization of human rights risks: the constitutional legal experience of post-soviet states. *The Turkish Online Journal of Design, Art and Communication*. April. Special Edition. pp. 352-3562.
- Cleary E. 2018. *Power, politics, and Pentecostals in Latin America*. New York. 272 p.
- Lutz, E., & Sikkink, K. 2000. International Human Rights Law and Practice in Latin America. *International Organization*. # 54(3). pp. 633-659.
- Sikkink K. 1993. Human rights, principled issue-networks, and sovereignty in Latin America. *International Organization*. # 47(3). pp. 411-441.
- <http://worldconstitutions.ru/> (accessed 7 March 2018).