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### Moral and Political Aspects of Constitutional and Legal Responsibility in the Republic of Uzbekistan

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#### **Annotation:**

The article deals with the actual problems of the presentation and application of moral and political requirements in bringing to constitutional and legal responsibility in the Republic of Uzbekistan. The underestimation of the role, significance and application of moral and political criteria in establishing constitutional and legal violations is analyzed.

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In the Republic of Uzbekistan, in accordance with the new realities for the development of New Uzbekistan, on the basis of the priorities outlined by the President of the Republic of Uzbekistan Sh.M. Mirziyoyev, the constitutional and legal foundations of Uzbekistan are being consistently improved. The interests of the person as the main value are placed at the center of constitutional reforms. A new system of values put forward by the President of the Republic of Uzbekistan is aimed at achieving this goal, which defines: "It is not the people who should serve state bodies, but state bodies should serve

the people<sup>\*</sup>.” Thus, the priority of values is redistributed. So, if it was previously proclaimed that the interests of the state first, then society and only then the person, now it has been revised to prioritize the interests of the person first, and then society and only then the interests of the state. These principles formed the basis of the Development Strategy of New Uzbekistan for 2022-2026<sup>†</sup>.

This issue poses the task of optimizing the constitutional and legal responsibility of participants in legal relations. At the same time, the higher the sociocultural competence of the subjects, the lower the need to apply measures of constitutional and legal responsibility to them, which, as noted by Adilkariev Kh.T. determines the content of the relationship of responsibility<sup>‡</sup>.

Along with this, attention should be paid to the fact that the constitutional-legal type of responsibility differs in many respects from other types of legal responsibility in embodying political characteristics. Here the peculiarity is expressed in the possibility of combining measures of constitutional, legal and political responsibility, as well as their subjects. At the same time, in this case the identity of these types of responsibility is not implied, but rather that constitutional and legal responsibility is realized in the sphere of political relations.

According to O.T. Khusanov, the Constitution manifests itself not only as a legal document; it is also a political document that has an impact on the regulation of political relations in society<sup>§</sup>. A.Yu. Korendyuk expresses a consonant position arguing that “Constitutional legal responsibility is often of a pronounced political nature and is closely related to or even combined with political responsibility<sup>\*\*</sup>”.

At the same time, one of the important issues, which has its own characteristics, is the question of correlating constitutional and legal responsibility with public legal responsibility. In particular, we can highlight the following criteria by which it is possible to establish distinctive features between these types of responsibility: public legal responsibility embodies both political and legal types of responsibility; subjects of law are responsible, first of all, to the people of Uzbekistan, who, according to Article 7 of the Constitution of the Republic of Uzbekistan, are the only source of state power. On this issue, Umarova K.U. states that “the category of public legal liability is a kind of abstraction, since it combines measures of liability within each of the branches of such a mega-branch (above the industry) as public law<sup>††</sup>.” Agreeing with the opinion of Umarova K.U. it can be stated that here the abstraction of public legal responsibility in comparison with legal responsibility, represented not directly, but only on an industry principle, is consonant with the latter. Also, when comparing public legal responsibility with constitutional legal responsibility, their relationship can be characterized as the ratio of the particular to the general. This means that the concept of “constitutional-legal responsibility” is narrower than the concept of “public-legal responsibility”, because constitutional-

<sup>\*</sup> Mirziyoyev Sh.M. Report at the ceremonial meeting dedicated to the 25th anniversary of the adoption of the Constitution of the Republic of Uzbekistan. December 7, 2021.

<sup>†</sup> Mirziyoyev Sh.M. Development strategies of New Uzbekistan for 2022-2026. – Tashkent, 2021. – 464 p.

<sup>‡</sup> Adilkariev Kh.T., Tulteev I.T., Azizov N.P. Theory of Government and Rights. T., 2014. – 522 p.

<sup>§</sup> Khusanov O.T. Constitutional law. – T.: Yuridik adabiyotlar publish, 2022-400 p.

<sup>\*\*</sup> Korendyuk A.Yu. Concept and signs of constitutional and legal responsibility // Magistracy Bulletin. 2017. No. 2-1(65).

<sup>††</sup> Umarova K.U. Legal and political culture of the peoples of Uzbekistan and Karakalpakstan: historical experience and modern factors of determination. Diss...doc. legal Sci. Nukus., 2006. – 310 p.

legal responsibility, as well as criminal administrative types of responsibility, refers to sectoral types of responsibility, which are generally included in the public-legal type of responsibility in as its subspecies or industry structural divisions.

Based on the specifics of the legal nature of public legal liability Yatsenko O.V. correctly characterizes it as a special interweaving of legal, political and moral measures of responsibility, indicating that its subjects are responsible primarily to the citizen, people and local population who act as the sole and main source of public (state) power<sup>††</sup>. In this vein, in particular, we cannot agree with the innovation of January 5, 2018 to the Code of Administrative Responsibility<sup>§§</sup>, where Article 193 introduces the liability of officials in case of violation of their rights and failure to fulfill duties to deputies and senators, including for violations during the consideration of parliamentary, deputy or senatorial request.

Along with this, in order to implement the provisions of Article 193, an addition was made to Article 283 of the Code on granting the apparatus of the chambers of the Oliy Majlis of the Republic of Uzbekistan and the secretariats of local Kengashes of people's deputies the right to go to court<sup>\*\*\*</sup>.

As can be seen from this innovation, violation of the rights of deputies and senators is qualified only on the basis of the branch of administrative law. At the same time, here, first of all, a political assessment should be given to the actions of the offenders, which, as P.A. Katigarov notes, should be based on a moral and ethical criterion. This is explained by the fact that in this case there is a violation of the rights of the deputy as a people's representative, and therefore the bearer of public power. Thus, a violation of the rights of a deputy should be regarded as a violation of the right of citizens of the Republic of Uzbekistan, enshrined in Article 32 of the Constitution of the Republic of Uzbekistan, to participate in the management of the affairs of society and the state, both directly and through their representatives. If this right of citizens is violated, this leads to a violation of the principle of democracy enshrined in the second chapter of the Constitution of the Republic of Uzbekistan.

Based on the socio-political significance of this unlawful act, the imposition of a sanction should be carried out through the prism of constitutional law and not administrative-legal, but constitutional-legal responsibility is applied<sup>†††</sup>. This means that cases of violation by officials of official ethical standards should also be qualified as a loss of trust and serve as a basis for holding them accountable. Its measure should not be a penalty, but a moral one in the form of dismissal from a position based on loss of trust, which implies a lack of positive motivation in the mind of the subject for the interests of the individual and the people, and therefore the state.

For example, in developed foreign democratic countries (Germany, Italy, Spain, France, USA, South

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<sup>††</sup> Yatsenko O. V. Institute of legal responsibility in public law: theoretical aspects // Philosophy of Law, 2007. - No.

<sup>§§</sup> Code of the Republic of Uzbekistan on administrative responsibility dated January 5, 2018 // Gazette of the Supreme Council of the Republic of Uzbekistan, 1995, No. 3.

<sup>\*\*\*</sup> Code of the Republic of Uzbekistan on administrative responsibility dated January 5, 2018 // Gazette of the Supreme Council of the Republic of Uzbekistan, 1995, No. 3.

<sup>†††</sup> Katigarov P. A. The need to highlight constitutional and legal responsibility as an independent type of legal responsibility // Young scientist. - 2013. - No. 6 (53). - pp. 558-564.

Korea, including China and others), civil servants, as a rule, are first presented with moral requirements for devotion to the interests of the people and the state, and then narrow party and departmental interests<sup>+++</sup>.

Particular relevance of the need to present moral and political requirements for the personal qualities of an official is given by the Decree of the President of the Republic of Uzbekistan dated October 3, 2019 No. UP-5843, which states that during the competitive selection of personnel for public positions it is necessary, first of all, to pay attention to patriotic, as well as moral-ethical qualities of the candidate<sup>§§§</sup>.

At the same time, it is necessary to carefully define the category of “trust”. For example, according to Ushakov D.N. Trust is the belief in honesty and integrity<sup>\*\*\*\*</sup>. Efremova T.F. believes that trust implies sincerity in relationships<sup>++++</sup>. According to Ozhegov S.I. and Shvedova N.Yu., trust is considered as “confidence in someone’s integrity, sincerity, in the correctness of something<sup>++++</sup>”.

At the same time, in labor relations, loss of trust is also based on the moral and ethical qualities of the employee, which serves as one of the grounds for holding them accountable<sup>§§§§</sup>. In this case, the employee’s conscientious performance of his job duties is regarded not only as his compliance with the requirements of the law, but also as a manifestation of high moral qualities<sup>\*\*\*\*\*</sup>.

Here, the loss of trust by a representative of the employer in a state civil servant is understood as the relationship that arose as a result of the commission of actions (inaction) by the state civil servant, which give rise to reasonable doubts in the representative of the employer about his honesty, decency, integrity, sincerity of the motives of his actions, ability to effectively perform his duty responsibilities<sup>++++</sup>.

It should be especially noted that these sanctions for such acts should be applied primarily to civil servants, since according to Article 2 of the Constitution of the Republic of Uzbekistan, it is the state that must serve the people's interests and be responsible to the latter. It follows that in such cases,

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[https://www.norma.uz/raznoe/analiz\\_opyta\\_pravovogo\\_regulirovaniya\\_gosudarstvennoy\\_slujby\\_zarubejnyh\\_stran\\_i\\_predl\\_ojleniya\\_po\\_ego\\_uchetu\\_pri\\_podgotovke\\_zakonoproekta\\_o\\_gosudarstvennoy\\_slujbe](https://www.norma.uz/raznoe/analiz_opyta_pravovogo_regulirovaniya_gosudarstvennoy_slujby_zarubejnyh_stran_i_predl_ojleniya_po_ego_uchetu_pri_podgotovke_zakonoproekta_o_gosudarstvennoy_slujbe)

§§§ Decree of the President of the Republic of Uzbekistan “On measures to radically improve personnel policy and the public civil service system in the Republic of Uzbekistan” dated October 3, 2019 No. up-5843 // <https://lex.uz/docs/4549993#undefined>

\*\*\*\* Ushakov D.N. Explanatory dictionary of the Russian language [Electronic resource]. - Moscow: Sov. encycl.; OGIZ; State foreign publishing house and national words, 1935-1940. T. 4. URL: [http://biblioclub.ru/?page=dict&dict\\_id=117](http://biblioclub.ru/?page=dict&dict_id=117)

++++ Efremova T.F. New dictionary of the Russian language. Explanatory and word-formative [Electronic resource]. - Moscow: Russian language, 2000. URL: <http://www.efremova.info/word/doverie.html#.Vta6AfmLTIU>

+++ Ozhegov S.I., Shvedova N.Yu. Explanatory dictionary of the Russian language [Electronic resource]. - Moscow: Az, 1992. URL: [http://www.lib.ru/DIC/OZHEGOW/ozhegow\\_a\\_d.txt](http://www.lib.ru/DIC/OZHEGOW/ozhegow_a_d.txt)

§§§§ Pulenko G.A. Education of the legal consciousness of future lawyers in the process of learning a foreign language // Dissertation for the degree of candidate of pedagogical sciences. - Rostov-on-Don 2009. – 159 p.

\*\*\*\*\* Tishchenko I.V. Dismissal due to loss of trust as a legal category // <https://cyberleninka.ru/article/n/uvolnenie-v-svyazi-s-utratoy-doveriya-kak-pravovaya-kategoriya>

++++ Vorobyov N. I., Galkin V. A., Mokeev M. M., Osipova I. N., Yudina A. B. Commentary on the Federal Law of July 27, 2004 No. 79-FZ “On the State Civil Service of the Russian Federation” (item by item). 2014 // SPS “Garant”.

constitutional and legal responsibility ultimately accrues to the Uzbek people and this type of constitutional and legal responsibility should be called representative constitutional and legal responsibility.

Summarizing the above analysis, it follows that in the scientific and theoretical segment and law enforcement practice of the phenomenon of constitutional and legal responsibility, insufficient attention is paid to the moral and political aspect of “proper” behavior, which, as a rule, is not fully taken into account when assessing and applying positive liability compared to retrospective (negative) liability, which is applied more actively.

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