

Abstract

The subject of this study deals with the criminal liability for issuing and executing military orders which are vague for the members of the security establishment and military and non-military magistrates who issue verdicts with regards to actions resulting from execution of military orders. It is to determine the criminal liability regarding the issuer of the military order and that of the executor of the military order. This shall be in light of the widespread legal principles since ancient times with regard to determination of this liability as the principle of absolute military obedience and the principle of legitimacy that regulates the work of the lawful, democratic and modern government. In order of Identification of the concept of military order since its definition is not stated in legal texts. The concept of military order shall be clarified to include standing military instructions. And the Obedience of the superior by the subordinate is a logical and practical outcome as part of compliance by the law i.e. the subordinate's obedience of the superior is a duty in view of the law on one hand and the obedience of the superiors is required within the framework of the latter's abidance by the law. So it is essential to have a legislative intervention to amend articles (203 and 204) Military punishment by adding, "or standing military instructions" so as not to incriminate these texts as they stand and since they expressly violate the regulations of standing instructions. So It is essential to have a legislative intervention to dictate the style of writing of military orders which include use of force and fire arms other than the case when it is not possible to obtain an initiation order. And It is essential to have a legislative intervention to expressly incriminate the mere issuance of an illegal order.