SOME HISTORICAL AND LEGAL ASPECTS OF BRINGING TO LEGAL RESPONSIBILITY FOR ISSUING AND EXECUTING CRIMINAL ORDERS AND ORDERS

Lankevich Andriy

DOI: https://doi.org/10.61345/1339-7915.2024.1.6

Annotation. From the analysis of historical and legal sources, it can be seen that the legal responsibility for issuing and executing criminal orders and orders went through certain stages of formation, which are directly related to the processes of emergence and development depending on the historical type of the state and its legal instruments.

It is noted that the first states that at the legislative level established legal responsibility, that is, punishment, including for giving and executing criminal orders and orders, were the states of the Ancient East, in particular, Ancient Egypt, Ancient Babylon and Ancient India, where at the legislative level legal responsibility was introduced not only for ordinary people, but also for representatives of the authorities for criminal actions against the state that encroached on the established state order. In most cases, the punishment for such acts was the death penalty.

It is argued that the idea of legal responsibility for issuing and executing criminal orders and orders dates back to biblical times, where it is inextricably linked to the doctrine of the origin and separation of powers. Therefore, in view of the significant influence of Christianity on the formation of the Western legal tradition, in particular the texts of the Bible, which in fact became the civilization foundation on which the legal norms designed to regulate social relations between people and government institutions were based and will continue to be based, including the scope revealed which is assigned to man for his dominion and the limits where such dominion ends. And in the event that not only representatives of the authorities, but also anyone violates the commandments established by the Creator, including not only by issuing, but also by executing orders or orders, then such actions are subject to condemnation, and the person himself is subject to punishment.

Key words: power, the Bible, rights and freedoms, legal responsibility for issuing and executing criminal orders and orders, the principle of legality.

1. Introduction.

The article provides a general description of the evolutionary stage of the development of legal responsibility for issuing and executing criminal orders and orders arising from the legal and historical sources of the Ancient World, Ancient Times and the Bible as the basis for the development of modern constitutional law. The biblical understanding of legal responsibility for issuing and executing criminal orders and orders, its content, nature and types is analyzed separately; the cause-and-effect relationship between the actions of government representatives and ordinary people and the onset of responsibility for violating God's commandments is revealed.

2. Formulation of the problem.

The institution of legal responsibility for issuing and executing criminal orders and orders is a necessary component of the legal toolkit to ensure the legal order and normal functioning of the state. Therefore, the study of the historical and legal sources of the establishment and development of this institution is important

for understanding its role and importance for society in modern conditions, where there has been a significant humanization of this institution in contrast to the first times of its introduction, with the subsequent clear identification of certain types of responsibility for giving and execution of criminal orders and orders.

3. Research status.

Considerable attention was paid to the study of historical and legal aspects of the issuance and execution of criminal orders and orders by lawyers-scientists, among them: H.M. Akhmetshin, G.V. Andrusiv, I.P. Andrushko, H.M. Aiisimov, F.S. Brazhnik, Y.V. Baulin, V.M. Bilokonev, P.M. Baltadzhi, M.O. Bosenko, P.D. Brannik, M.V. Vasylsv, A.B. Vsngerov, M.M. Voronov, D.V. Vedenin, O.L. Herzenzon, V.Y. Grigencha, L.M. Gorbunov, S.D. Husarev, V.S. Davydenko, O.L. Dzyubenko, A.P. Dmytrenko, S.I. Dyachuk, O.O. Dudorov, M.P. Dryga, M.I. Zagorodnikov, M.F. Zaits, A.I. Slistratov, S.M. Inshakov, O.S. Koblikov, R.A. Kalyuzhny, V.M. Kudryavtsev, V.I. Kurlyandskyi, R.O. Lopukhov, V.V. Luneev, V.P. Maslov, I.M. Matskevich, V.O. Pavrotskyi, M.I. Panov, A.A. Piontkovskyi, Y.B. Puzyrevskyi, A.M. Polev, E.V. Prokopovich, V.V. Romanov, O.M. Sarnavskyi, B.I. Sazonov, I. I.Slutskyi, M.M. Senko, O.S. Tkachuk, M.S. Turkot, M.I. Khavroshok, A.A. Ter-Akopov, B.S. Utevskyi, V.M. Chhikvadze, S.O. Kharitonov, G.I. Changuli and others.

However, the legal nature of issuing and executing criminal orders and orders in this areas need a comprehensive study, because there is a lot left debatable issues, there are no unified approaches to understandingof this problem, both in science and in practice.

4. The purpose of the work.

The purpose of the article is to study the specifics of the role and place of the institution of legal responsibility for issuing and executing criminal orders and orders in the historical mechanism of human rights protection. The author sets himself the main tasks: to reveal some stages of the emergence and development of this institute in view of the historical and legal sources in order to emphasize its significance, not the loss of relevance and further improvement in order to establish, ensure and protect the rights and freedoms of man and citizen on the part of the state.

5. Review and discussion.

The formation of the phenomenon of legal responsibility for issuing and executing criminal orders and orders is not possible without the existence of the state and state power in general. Therefore, in our opinion, the dialectical-materialist approach to the knowledge of the historical processes of the emergence and establishment of legal responsibility for the issuance and execution of criminal orders and orders through the methodological direction remains the most balanced, justified and therefore the most effective in the course of scientific research of this phenomenon in its historical development.

The state, as a universal and the most powerful governmental organization, is responsible for everything that happens on its territory, primarily for the actions of its authorized public structures and their officials in relation to people, their rights and freedoms. Such responsibility on the part of the authorities in material and procedural terms refers to socio-historical phenomena. In fact, we are standing on the foundation laid by previous generations, and from the heights we have reached, we vaguely feel that its laying cost mankind long and painful efforts" [11, p. 115].

When studying the emergence and development of legal responsibility for issuing and carrying out criminal orders and orders, the historical method should be used, which will make it possible to clearly determine the stages of formation of fundamental ideas about legal responsibility for the specified actions. In this aspect, one should agree with A. Osaulenko, who believes that the emergence of ideas about legal responsibility dates back to the times of Ancient Greece [14, p. 12].

However, it is known from scientific sources that the first states that established legal responsibility at the legislative level, i.e. punishment, including for giving and executing criminal orders and orders, were the

states of the Ancient East. As noted by V. Tomsinov, the peculiarity of the legislation of Ancient Egypt was that it was mostly of a religious nature [23, p. 473]. Although S. Chibiryaev points out that the principle of intimidation operated in the legislation of that time [9, c. 18], which, among other things, was supposed to encourage persons who were representatives of the then authorities to refrain from actions that contradicted the then legislation, and persons who were subordinate to them.

Thus, in the legislation of Ancient Egypt, punishment was introduced for actions aimed at sedition and other actions against the state. And all these crimes were punishable by death [9, c. 18]. In this way, the features of the introduction of legal responsibility for issuing and executing criminal orders and orders are traced.

In the countries of Mesopotamia, in particular, in Ancient Babylon, you can also find elements of the introduction of legal responsibility for giving and executing criminal orders and orders. First of all, this concerns the Laws of Hammurabi, which introduced punishment for those who committed actions that encroach on the state system [25, p. 12-24]. Including by issuing and executing criminal orders and orders.

N. Krashennikova, analyzing the law of ancient India, points out that along with the existence of religious and moral norms "dharma", which is understood as a precept, there is also the concept of "nyaya", i.e. a rule of conduct, the violation of which entails a punishment applied by the state [10, with. 94].

However, as it follows from scientific and historical sources, in most cases, the grounds for bringing to legal responsibility for issuing and executing criminal orders and orders in ancient India were similar to Egypt and Babylon. The death penalty for crimes against the state system was also widespread. Although a certain category of persons according to the Laws of Manu were exempted from legal responsibility under any circumstances. Yes, Art. 230 Laws of Manu indicates that one cannot kill a Brahmin even for the most serious crimes, including crimes against the state system. The only thing that was allowed to be done in relation to him was to expel him from the country with all his property [25, p. 25-33]. Thus, Brahmins as the highest caste of ancient Hindu society could not bear legal responsibility for their actions, since expulsion from the country is a responsibility, first of all, of a social nature than a legal one, although it is coercive in nature. In addition, as in the Laws of Hammurabi, the Laws of Manu (IX, 231 - 232) provide for official crimes. They provided for the responsibility of state officials for abusing their position and for issuing and executing orders of an illegal nature [25, p. 25-33].

In this sense, M. Tereshchuk, researching the peculiarities of establishing legal responsibility for the issuance and execution of orders of an illegal nature, notes that for the first time in the ancient world, the Laws of Hammurabi and the Laws of Manu set out the grounds for holding a person to legal responsibility for official crimes. According to the author, the presence of responsibility of an official as a subject of legal relations of a public nature, representing the interests of the state, is a sign of the existence of responsibility of a public nature [20, p. 42].

However, in the works of thinkers of the ancient era, the understanding of legal responsibility for giving and carrying out criminal orders and orders, in particular Aristotle, Plato, Socrates, and other thinkers, is carried out through the prism of moral and ethical norms that operated at that time in society, which served as a support for law and justice , however, these criteria are fundamental for distinguishing orders and orders that have a criminal nature and bringing their authors to legal responsibility.

M. Tereshchuk, analyzing the views of the ancient Greek thinker Sophocles, comes to the conclusion that it was the revolution in human consciousness that became the impetus for the emergence of the institution of responsibility. As a result, as M. Tereshchuk notes, two concepts of the emergence of responsibility arise: the first is that people's actions ultimately lead to a negative or positive result that does not depend on their intentions, and the essence of the second is characterized by the fact that responsibility connected with the conscious choice of human behavior. Equally important for the study of the genesis of the concept of legal responsibility is the understanding by ancient thinkers of the relationship between human behavior and the reaction to it from society and the state [21, c.27]. That is, to trace the emergence and development of the institution of legal responsibility for issuing and executing criminal orders and orders in Ancient times is also possible precisely because of the development of the idea of legality as an integral component on which legal responsibility is based.

So, Socrates believed that no one can go unpunished for his misdeeds [18, p. 315]. He explained this by the fact that every human misdeed should be given a moral assessment [18, p. 308]. In turn, Aristotle pointed out that the benevolence of a person consists in the ability to rule and be subject [2, p. 452].

It can be seen from the above that the moral and legal criterion is the basis for evaluating the behavior of the representatives of the authorities, since it is based on the law and justice, which it should serve, so to speak, as the cornerstone of the existence of society as a whole.

In Cicero's "Dialogues" there is a remark which, according to some authors, can be used as an expression of the principle of legality: "everything must be subject to the law" [26, p. 139]. At the same time, Cicero's expression, in our opinion, can be interpreted as an expression of the principles of equality before the law and the inevitability of responsibility, including representatives of the authorities, who, having powerful powers, can also use them in violation of the law, by issuing orders. And therefore, as Heraclitus notes: "The people must fight for the law, as for their walls" [8, p. 280], including the initiation of bringing to legal responsibility, in particular, representatives of the authorities who violate it with their orders and orders.

Subordination of power to the law is one of the important conditions for the functioning of the legal state. Even the great ancient Greek philosopher Plato noted: "I see the imminent demise of that state where the law has no force and is under someone's authority. In the same place where the law is the ruler that only the gods can give to the states." "There are two types of state system: one - where the rulers are above everything, the other - where the rulers are also ordered by laws" [17, p. 188].

In turn, Aristotle noted: "It is better that the law reigns. And not someone from among the citizens" [1, p. 481]. Cicero emphasized that: "Everyone should be subject to the law" [27, p. 139].

Although throughout the history of the existence of the principle of legality, its meaning changed according to the era whose values were protected by the law [24, p. 41].

Given the significant influence of Christianity on the formation of the Western legal tradition, in our opinion, it would be appropriate to also refer to the Bible, which essentially became the foundation of civilization on which the legal norms designed to regulate social relations between people and government institutions were based and will continue to be based. . Therefore, in our opinion, the idea of legal responsibility for issuing and executing criminal orders and orders dates back to biblical times, where it is inextricably linked to the doctrine of the origin and separation of powers.

Although, according to P. Barenboim, we cannot find such a division of power in the Bible, since we are not talking about a detailed theory of the division of power, which was formulated in a fairly complete form in the XVII-XVIII centuries. and practically embodied in many respects at the end of the 18th century. in the USA [3, p. 68]. On the contrary, R. Papayan has a completely opposite opinion, who claims that the idea of three branches of government with the demarcation of their functions that we see even in our time is still clearly indicated in the Bible. [15, p. 190].

Thus, in the Book of the prophet Isaiah it is noted that "the Lord is our judge, the Lord is our lawgiver, the Lord is our king" (Isaiah 33. 22). These three postulates, as R. Papayan claims, clearly fix the threefold nature of power, indicate on their functions - legislative, judicial and executive. But together, as the author notes, they emphasize what unites these three branches: they are God-founded and, accordingly, God-oriented. Drawing a parallel between man and power, the researcher emphasizes that, similar to as the granting of rights to a person was in fact the transfer of divine properties to him, so the granting of powers to the three functional branches of state power became an act of transferring to them God's image (legislative, judicial and executive powers) and likeness (orientation towards divine purity and justice) [15, p. 190].

From the above, it can be seen that the divine nature of the establishment of power on earth was carried out by transferring it to individuals, and not to one particular person. This indicates the existence of a division of power into three branches (legislative, executive and judicial) from the very moment of its formation. At the same time, regardless of the constructive separation of power both at the divine level (three hypostases) and at the human level (three branches), power in its essence acts as a single, interconnected component.

Analyzing the biblical version of the doctrine of the separation of powers, P. Barenboim notes certain periods of formation of the three branches of power. The scientist considers the era of Moses as one during which the practical consolidation of the distribution of power took place from the beginning by separating it into the judicial branch, and the era of judges before its legislative consolidation [28, p. 27-28]. Having in mind the book written by the prophet Samuel, which is mentioned in the Book of Kings, and in which the prophet Samuel wrote the rights for the people (1 Sam. 10. 25).

However, R. Papayan notes that the principles of "state building" date back to much earlier times than the end of the era of judges and even the reign of Joshua. Moreover, the author emphasizes that these principles were established by God long before Moses. Since, in his opinion, whoever wrote the "Book of the Law", whoever added various additions to it, all the same biblical legislators listened to the voice of God and recorded only the Lord's decrees. In connection with this, the researcher emphasizes the fact that when studying the texts of the Bible, we have already seen many times that the Lord God is not at all inclined to "experiment" and offer people some legislative solutions that were born from Him "on occasion". Therefore, according to the scientist, the foundations of the universe have always been in God Himself since the days of His creation of the world. Because when creating the world, God not only foresees the order of earthly life and its management, but also establishes this order [15, p. 194].

As noted by Fr. Oleksandr Men, in the biblical concept of the world order, "the cosmic order is projected onto the earthly one" [13, p. 33] In this regard, R. A. Papayan's view that in reality there is an imaginary contradiction in the statement about the creation of the world by God from nothing, and the words of Solomon about the right hand of God, which "created the world from formless matter" (Mud. 11. 18), because as the scientist notes, the visible and represented that "formless substance" created by the Lord from nothing, that chaos that had to be ordered, arranged and processed into the world, the chaos that is presented in the second biblical sentence in the words : "And the earth was void and empty, and darkness was over the deep" (Gen. 1. 2). According to Professor A.P. Lopukhin subsequent acts really represent the ordering of chaos: separation of light from darkness, sky from earth, sea from land [22].

In all this, the constitutionalist R. Papayan sees the importance of the fact that from the very beginning, in the very first sentence about the creation of heaven and earth, the Bible emphasizes the separation of the spiritual (heavenly) sphere from the material (earth) sphere. The scientist emphasizes that even such a short sentence at first glance reveals the further essence of the divine creation of the cosmos. At the same time, according to the author, everything down to the smallest details is extremely important: both the immediate proximity of the words "God" and "heaven", and the order of the words in the enumeration, puts the sky first and only then - the earth, and the fact that the sphere of the invisible is marked at the top of the sky-earth vertical. That is, all the details of this laconic, but extremely capacious sentence, the researcher emphasizes, mean that the meaning consists in establishing "top" and "bottom", in fixing subordination. Summarizing, Papayan RA claims that this is the establishment of general divine authority over everything that will be created later, including over the visible world that is still awaiting its arrangement [15, p. 194-195].

According to Basil the Great, the Archbishop of Caesarea Cappadocia, precisely in these above-mentioned, at first glance short sentences of the Book of Genesis, the essence of the universe is revealed, where the sky received seniority in creation, and the second place is occupied by the earth [5, p. 15].

Revealing the words given in the Bible regarding the seniority and superiority of the heavenly over the earthly, R. Papayan draws a sharp line between the divine sphere, which is invisible to man, and the world in which he will be, over which he will "rule" and which he will "possess": " That which belongs to the Lord our God is closed, but ours and our sons' is open forever "(Deut. 29. 29). The scientist notes that the mundane (earthly) world is obtained only by being organized. As the author notes, such a relationship of concepts is clearly traced in the apostolic words "God is not a God of disorder, but of peace" (1 Cor. 14. 33), from which it follows that the world is first of all "arrangement". Therefore, according to the scientist, further acts of divine creation are the arrangement of the world [15, p. 195].

Despite the fact that in various places of the Bible it is said about the authoritative functions of God, but in the Book of the prophet Isaiah it is actually brought together and three authoritative functions of God are revealed: the first legislative - ("My statutes and my laws" - Genesis 26. 5; "God gave him a decree and a right" - Exodus 15. 25, etc.), the second judicial - ("Judge of the whole earth" - Genesis 18. 25; "God is a

just judge" - Ps. 7. 12; "God , judge on earth" - Ps. 57. 12, etc.), and the third executive - ("The Lord your God is your King" - 1 Sam. 12.12; "God, my king!" - Ps. 43. 5; " I am the Lord, your Holy One, the Creator of Israel, your King" - Isaiah 43. 15, etc.). These same functions are clearly indicated in the three hypostases of God, which are three, but essentially one. That is, the first hypostasis of God is God the Father (creator and legislator), the second hypostasis of God is God the Son (judge) and the third hypostasis of God is God the Holy Spirit (executor). All three hypostases make up one system of power, which is commonly called: legislative, executive and judicial system.

Further on, it can be seen from the texts of the Bible that only Moses (Is. 4.16-20, 7.1) had such completeness of power among people, which combined all three branches (legislative, executive and judicial), who had to separate these functions from each other and transfer to other persons.

But before the worldly government was formed, the spiritual one was formed from the beginning. As noted by R. Papayan, God Himself separates His spiritual authority. The fact that the spiritual power was separated from the worldly power before all others, the scientist notes, allows us to think that this division is special. At the same time, the researcher draws a parallel between God's creation of spiritual and material power structures, where spiritual power has priority over earthly power. The constitutionalist emphasizes that the separation of the spiritual world from the material world was the first divine act carried out beyond the seven days of creation, beyond tangible time: "In the beginning God created the heavens and the earth" (Genesis 1.1). And only then, from the emptiness of the material world ("The earth was void and void" - Gen. 1.2), and within seven days light (analogous to law), firmament (analogous to court) and earth (analogous to executive power) were created. . Exactly so, according to the researcher, authorities were formed in the society of God's chosen people: the spiritual authority was separated from Moses and transferred to Aaron before the beginning of the countdown of the time allocated to the formation of the Israeli statehood - during their stay in Egypt. And only then, in the process of the result, secular institutions of power were formed on the "desert" land (in the Sin desert) [15, 249].

R. Papayan believes that power rights, in particular, legislative law, were delegated to man later, firstly, after all the main natural-law regulators were given to people in the form spoken by God, and secondly, after the process of the formation of the state from all power structures. After all, the scientist emphasizes the writing of the law, it is first mentioned by a person in connection with secular legislation and immediately before the formation of the last branch of state power - the executive. It was then that the Lord said to the prophet Samuel: "Announce to them the rights of the king who will reign over them" (1 Sam. 8. 9). And immediately before the reign of Saul on the royal throne, "Samuel explained to the people the rights of the kingdom, and wrote in a book, and laid it before the Lord" (1 Sam. 10. 25). The scientist explains that this episode no longer precedes the words of the law, which directly come from the mouth of the Lord, as it was before; here the prophet himself lays down the law, and the Lord gives him relative freedom of action, which the ancient prophets did not have. At the same time, the researcher emphasizes that in any case the law is from God, because the prophets are in constant communication with God, and the laws whose origins are different are considered meaningless: "The statutes of nations are emptiness" (Jer. 10) [15, p. . 249].

That is, it can be seen from the above that the Bible really shows the divine property of power, its hierarchy of establishment and formation in the higher universe "in heaven", long before the creation of the earth and man himself. The sphere assigned to man for his domination and the limits where such domination ends are revealed. At the same time, a person gets power over the visible world - the earth only after everything in this visible world has already been ordered by God himself. In fact, a person receives power over a ready-made creation from the Creator himself, and thus a person must act in relation to the creation over which he received power, not contrary to, but taking into account the opinion of the Creator himself.

That is, if not only representatives of the authorities, but also anyone violates the commandments established by the Creator, including by issuing and executing orders or orders, then such actions are subject to condemnation, and the person himself is subject to punishment.

Among the first mechanism, we can mention Moses' condemnation of the high priest Aaron's imperious actions, who by his actions violated the system of authority established by God. At the same time, it should be noted that such actions of Moses took place before the formation of the human system of power and statehood. Thus, instead of worshiping God and recognizing him as Lord and Ruler, the people, together with the high priest Aaron, worshiped a cast golden calf.

According to R. Papayan, consideration of this case by Moses had not only a spiritual, but also a social and political meaning. Because, on the one hand, Aaron, being the high priest, i.e. having authority, being influenced by the people and giving the order to create a cast deity in the form of a golden calf, violated God's commandment regarding the prohibition of having other gods besides the Creator. And having worshiped the cast deity, i.e., by fulfilling a criminal order, the society became not only an apostate, but also violated, as R. Papayan observes, the "constitutional system", the theocracy established in the Ten Commandments [16].

That is, until God appointed a king for the people to rule over them, there was no other system of government except God's system of government. Therefore, the society led by the high priest Aaron spontaneously changed the system of government in an unspecified "unconstitutional" way without coordinating their actions with Moses, who was the representative between God and the people.

Therefore, R. Papayan emphasizes the fact that it was at this moment that the stone tablets with the commandments written on them broke (Exod. 32:19) quite symbolically: the cult of the golden body by itself "destroyed" the most important norm of this "constitution " - "broke" her. After that, the judge of "important cases" Moses was entrusted with the duty to restore the broken "constitutional system": "Hear for yourself two stone tablets like the first ones, and I will write on these tablets the words that were on the first ones" (Ex. 34:1).

Thus, the deep meaning of this judgment of Moses was the restoration of the "constitutional order" [16] and the system of government as a whole. And accordingly bringing to justice the persons for the inclination to give the above-mentioned criminal order and the persons who carried out such an order, by the execution of three thousand people (Exodus 32:1-32).

Another Biblical example of bringing the representatives of the authorities to legal responsibility for issuing a criminal order took place under King Saul, who violated God's commandments, which, according to R. Papayan, became the cause of a completely "constitutional" change of power. The constitutionalist notes that the decision to "impeach" King Saul, which was made by Judge Samuel, and such a harsh verdict was based on the fact that the king violated "constitutional" norms, the commandments of God. In Samuel's verdict, according to the author, they are formulated as a violation of the right given by God: "For rejecting the word of the Lord" (1 Kings 15:23) [16]. That is, King Saul, in view of his powerful status, issued criminal orders that contradicted the will of the Creator and thus was held accountable by removing him from power.

It is important in this situation, R. Papayan emphasizes, that the person who anointed the first king Saul to power was the judge Samuel. But the most important thing, the scientist emphasizes, is that after the reign of Saul, Samuel remains at his judicial "post" and his verdicts are binding on the king himself, and the king obeys him: "And he waited [Saul. - R. P.] seven days of the appointed time appointed by Samuel "(1 Sam. 13. 8). The king reports to him and asks for leniency and forgiveness: "And Saul said to Samuel: I have sinned, because I have transgressed the commandments of the Lord and your words, [...] now take away my sin from me" (1 Tsar. 15. 24). According to the researcher, this means that the judge is the person whose verdicts are powerful both over ordinary people and over kings. This happens after the apostasy of King Saul, who is deprived of the throne by the verdict of Judge Samuel. First, Samuel warns the king: "And Samuel said to Saul: You have done that you did not listen to the commands of the Lord your God [...]. But now your kingdom will not stand" (1 Tsar. 13. 13-14). In case of repeated apostasy, the judge pronounces the final sentence on the king: "Are burnt offerings and sacrifices so pleasing to the Lord as obedience to the Lord's voice? Obedience is better than sacrifice, submission is better than lamb's fat; for disobedience is as much a sin as divination and idolatry. Because you rejected the Lord's words, He rejected you so that you would not be king" (1 Sam. 15. 22-23).

R. Papayan calls this historical event the "biblical Watergate" because the scientist proves that the Lord Himself never spoke to King Saul, all the Lord's decrees and commands were communicated to the king through the mouth of the judge - Samuel. In connection with this, the scientist believes that in the words about disobedience to God, we are actually talking about disobedience to the judge Samuel, about the disobedience of the king of the judiciary, the consequence of which is the biblical "impeachment" announced to the monarch by the judge. [15, pp. 290-291].

Also, a vivid example of the giving of a solemn order can be seen in the actions of the Sanhedrin, when it forbade the apostles to speak to the people about Jesus and his teachings. And, having called them, they ordered them not to speak, and not to teach at all about the Name of Jesus. And Peter and John answered them, and said: Judge, would it be just before God to obey you more than God? (Acts 4:18,19).

After analyzing some texts of the Bible, it should be noted that submitting to the authority of the law is not a panacea for all ills. The principle of "rule by law" is a necessary, but still insufficient guarantee of protection against authoritarian violence and arbitrariness, because no one and nothing can prevent a police or totalitarian state from legally formalizing its violence and authoritarian arbitrariness [12, c.15].

"As for power," Rousseau argued, "it must be such that it cannot turn into any violence and must always be exercised according to the right of one's position in society and by virtue of the laws..." [19, p. 188].

We can find memories of the responsibility of powerful people before the people in the 11th century in the works of Hilarion, when he was the Metropolitan of Kyiv. Thus, in his work "Words about Law and Grace" the idea of equality and equality of peoples was formulated, and for the first time the question of the prince's responsibility to his subjects was raised and an idea of the image of an ideal ruler was formulated, the moral criteria he must meet were developed [6, p. . 131].

At the end of the 16th and the beginning of the 17th centuries, the famous Ukrainian religious polemicist Ivan Vyshensky defended the idea of the natural equality of all people, regardless of their origin and social status. Thus, he emphasized that a powerful person must also be responsible for his actions before the law and God [7, p. 243].

6. Conclusions.

So, in the context of the question of the emergence and development of legal responsibility for issuing and executing criminal orders and orders, we can see that in different historical eras, both representatives of Western and Eastern legal opinion were concerned with the question of the expediency of the existence of legal responsibility for issuing and executing criminal orders or orders. In connection with this, the normative consolidation of such responsibility took place in almost all legal systems from the very beginning of the existence of the state. Confirmation of this can be found both in the legal sources of the Ancient East and the Ancient Polis, as well as in the Biblical texts, which in their essence are not only one of the fundamental sources of the emergence of constitutional law, but also continue to be so, without losing their relevance to this day. Because it follows from the Bible texts we analyzed that legal responsibility was established even before the existence of state institutions and the state as a phenomenon in general. And such responsibility was established not only for representatives of the authorities for giving criminal orders and orders, but also for ordinary people who carried out such orders. In addition, the Bible enshrines forms of legal responsibility for giving and executing criminal orders or orders, one of which is constitutional responsibility (removal from authority), which reflects certain generic features of legal responsibility, while it is implemented depending on certain features of one or another phenomenon which is reflected in the Biblical texts, thus filling the legal responsibility for the above actions with additional meaning.

References:

1. Aristotle. Politics. Op. in In 4 volumes. T. 1 Aristotle. – M., 1984. 481 p. [in Russian].
2. Aristotle. Works: In 4 volumes. T. 4. Trans. from ancient Greek General ed. A. I. Dovatura. Moscow, 1983. 830 p. [in Russian].
3. Barenboim P.D. The first constitution of the world. Biblical roots of judicial independence. M, 1997. 144 p. [in Russian].
4. The Bible. Holy Dormition Pochaev Lavra. – 2006 [in Ukrainian].
5. Basil the Great. Conversations on Six Days // Creations of Saint Basil the Great, our Father. Ch.1. – M., 1845. – Reprint: M.: Izd. Moscow Department. Patriarchate, 1991. 408 p. [in Russian].

6. Vernadsky G.V. History of Russia: Kievskaya Rus / G.V. Vernadsky. – Tver: LEAN, 1996. 445 p. [in Russian].

7. Revocation of the Ukrainian National Council from November 1, 1918. Constitutional Acts of Ukraine 1917-1920 // Unknown Constitutions of Ukraine. – K.: Philosophical and sociological thought, 1992. 272 p. [in Ukrainian].

8. Heraclitus. About nature. Anthology of world philosophy: In 4 vols. – Vol. 1./ Heraclitus. – M., 2000. 576 p. [in Russian].

9. History of the state and the laws of foreign countries: study. for universities. / Ed. dr. law Sciences, Prof. S.A. Chibiryaeva. Moscow, 2002. 472 p. [in Russian].

10. History of the state and the laws of foreign countries: study. for universities: in 2 parts. Part 1 / Pod obsch. ed. D.Yu. n., prof. O.A. Zhidkova and d. Yu. n., prof. N.A. Krashennikova. 2nd ed., pp. Moscow, 2001. 624 p. [in Russian].

11. Kovler A.I. Anthropology of law. – M.: Norma, 2002. 115 p. [in Russian].

12. Lesyn, Stanislav Vladimirovich. The state as a subject of legal responsibility. Theoretical and legal aspect: Diss. ... candidate law Sciences: 12.00.01 . – Moscow: RGB, 2002. 219 p. [in Russian].

13. I am Alexander. How to read the Bible. Guide to reading the books of the Old Testament. Brussels, 1981. 240 p. [in Russian].

14. Osaulenko A.O. Normative construction of retrospective legal responsibility in the public law of modern Ukraine: autoref. thesis for obtaining sciences. candidate degree law Sciences: specialist 12.00.01 "Theory and history of the state and law; history of political and legal students". Kyiv, 2007. 18 p. [in Ukrainian].

15. Papayan R.A. Christian roots of modern law / R. A. Papayan. – M., 2002. 416 p. [in Russian].

16. Papayan R.A. Constitutional control – biblical origins / R.A. Papayan. URL: http://www.concourt.am/armenian/almanakh/almanac2002/149.htm [in Russian].

17. Plato. Laws (715 a). Compositions. Vol. 3. Part 2. M., 1972. 678 p. [in Russian].

18. Plato. Assembly Op. in 4 volumes. T.3. General ed. A.F. Losev, V.A. Asmus, A.A. Taho-Hody; The author's introduction. articles and notes. A.F. Losev. Note A. A. Tahoe-Hoda. Moscow, 1994. 654 p. [in Russian].

19. Rousseau J.-Zh. Tracts. – M., 1969. 696 p. [in Russian].

20. Tereshchuk M.M. Historical aspects of the formation of legal responsibility in public law / M.M. Tereshchuk // Scientific Bulletin of the Kherson State University. Series: Legal sciences. – 2015. – Issue 3(1). – URL: http://nbuv.gov.ua/UJRN/Nvkhdu_jur_2015_3(1)__12 [in Ukrainian].

21. Tereshchuk M. Legal responsibility in public law: dissertation. ... candidate law Sciences: 12.00.01. Kyiv, 2018. 211 p. [in Ukrainian].

22. Interpretation of the Bible, or Commentary on all the books of the Holy Scriptures of the Old and New Testaments. Volume 1. Genesis – Proverbs of Solomon / edition of the successors of A.P. Lopukhin. St. Petersburg, 1904–1907. 2nd ed.: Stockholm: Institute of Bible Translation, 1987. (Reprint: M.: Terra, 1997) [in Russian].

23. Tomsynov V.A. State and Law of Ancient Egypt: [monograph] V.A. Tomsynov. – M. IKD Zertsalo-M, 2011. 512 p. [in Russian].

24. Fedorov K.G. History of the state and the rights of foreign countries / K.G. Fedorov, E.V. Lysnevsky. - Rostov-on-Don, 1994. 345 p. [in Russian].

25. Textbook on the history of the state and the laws of foreign countries / Ed. Z.M. Chernylovsky. Moscow, 1984. 472 p. [in Russian].

26. Cicero. Compositions. Dialogues / Cicero. – M., 1966. 139 p. [in Russian].

27. Cicero. About laws. Dialogues. About the state / Cicero. – M.: "Nauka", 1994. 139 p. [in Russian].

28. Peter Barenboim Biblical Roots of Separation of Powers. Moscow, 2005. 176 p. [in English].

Andriy Lankevich,
Doctoral student of the Department of Constitutional Law and Comparative Jurisprudence,
Department of Constitutional Law and Comparative Jurisprudence
"Uzhgorod National University"