

**EVALUTION MORAL BASIC OF BRITISH IN THE ERA OF TRANSITION FROM
THE MIDDLE AGES TO THE MODERN TIME**

Ne`matova Dilbar

a atudent at navoi state pedagogical institute

Pirimova Namuna

a atudent at navoi state pedagogical institute

Erdanov Z.D.

senior teacher at navoi state pedagogical institute

Email: nematovadilbar218@gmail.com

Phone number: +998 97 891 72 27

Abstract: The article deals with the issue about the evaluation of the moral foundations of British justice in the Era of transition from the middleages to the modern times. Much attention is paid to arise in the period under consideration feature such as: Gradual restriction of the powers of the community in the administration of justice, the centralization and strengthening the power of the judiciary, consistent criminalization of acts committed, the formation in the public consciousness the ideology of justice adopted judicial acts and peremptory belief in the inevitability of the resolution of any case. The empirical material article provides links to specific cases before the courts in Britain, said he historical.

Keywords: Government, morality, court, justice, the criminalization of act, enforcement activities, the modern time.

A Theory: of justice performs various functions the “functions in any given age are determined by the needs of the time. But whatever the functions are, the need to reformulate the principles by which law lives is an ever-recurring need. New insights are gained or old ones recaptured, modifications of existing habits of social and legal action are made, new objectives are formed, new conflicts emerge, and from the growing disorder of change a new ordered vision of the organizing principles of law is required.

Since the XIV century community control system of medieval European society has become to undergo significant changes. The ruling elite has sought centralize power. Political changes had in impact on the then existing system of justice. The rules knew that the court is real instrument of the government, with which you can adjust the changing social relations and preserve the existing law.

Gradually changing views of society on the nature of the offense. If earlier offense considered as an attack on the interests of the community, but now their commission is defined as an attack on the interest of the state as a whole. Law, as a management tool, it gets the distinct criminal in nature. A. Bettoni said: “Until now, the law to exist and develop outside the state; it was formed under the influence of the community, its creator, being in harmony with it and closely interwoven and maintaining its long existence away from the usual policy of.”

These legal novels gradually deprived communities the right to review court cases justice community purpose fully replaced by officials state justice, endowed with governmental

authority. Nevertheless, the existence of a new kind of justice, prepared accordance with the procedural rules of ex officio is not indicative of an instantaneous failure of community justice.

A philosophical point of view, legality is a component of the normative realm, and within that realm of the governmental virtue as a term is defined as the system of laws and regulations of right and wrong behavior that are enforceable by the state through the exercise of its policing powers and judicial process, with the threat and use of penalties, including its monopoly on the right to use physical violence. Legality is presented by (Erhard, Jensen and Zaffron) as an element of a social model based on integrity, which in corporate phenomena of morality, ethics and legitimacy(Erhard, Jensen and Zaffron, 2009, p.7). On the other hand there are some authors who claim that the principle of legality has changed, meaning its content and Scope of the principle have evolved over time, while the courts have transformed the principle's very constitutional justification.

Considering the features of the development of justice in a particular historical period, we can not specify the exact chronological framework of changing its forms. Using conventional terms " The Middle ages", "the Modern Time", we try to reveal the phenomenon of justice in its movement, show that "feature", which indicates the emergence of a qualitatively new level of development of the research object. Personal dignity is the basis all other personality rights, and thus the right to preserve the physical integrity of the mental integrity of the person (prohibition of beating, physical punishment, mental integrity prohibition of insulting, humiliation, discrimination), the right to respect for private and family life, the right to free development of personality , etc. personal dignity can be harmed by the same actions which harm honor and reputation incorrect, incomplete or inaccurately conveyed information but also by providing accurate information from the intimate Sphere of personality, i.e. actions which violate the right to privacy.

Italian scientist M. Broccoli, referring to the " treatise on the atrocities" Albert Gandini, argue that the commission of serious crimes (murder), the parties may reach an agreement of obtain satisfaction, and thus be reconciled. However, these agreements could not prevent the investigation process violations by law enforcement agencies of the government and to deprive them of the possibility of punishing the guilty. It should be noted that during this period in the administration of justice persisted and remained effective pre-existing legal structure that can often seek dismissal of the case on the basis of the general agreement of the parties, albeit with the assistance of the official judge.

The community, as a comparatively small community of people had an idea of each of its member. The moral aspect of man is stable, it develop over a long period of time. Gradually remove the community from the judicial process. Justice is now carried out by state judges, receives the right to judge and punish. During the period according to A.Bettoni, "the official images and statues of justice, the European adorning churches, squares and buildings, in addition to the two mandatory attributes appears blindfold. Reducing the role of the community in the justice process facilitated by the reduction in public assessments of the values of in respect of participants in the judicial process".

Another important feature of justice in the period of modern times is the consistent criminalization of offences committed in the community. The desire of the ruling elite to strengthen its position reflected in the expansion of the functions of judges to hear and determine, first of all criminal cases. The greatest expression of these features found in British justice.

According to history professor D.Roubotama«in England of the XVIII century behavior that would have paid little attention to itself or be subjected to condemnation by the middle of the XIX century already it would be considered criminal. This process of expanding the scope of the criminalization of more and more aspects of individual behavior in everyday life continues to this days».

The radical change in the legislation from the disposition to the imperative in areas such as family, interpersonal relationships, health health security, and so on, the most detailed the contents of the wrongful act.

The peculiarity of the process of criminalization of the most visually can be expressed by reference to the concepts of “guilt” and “shame”.

Shame and guilt have often been recognized as important emotions when it comes to discipline, control and overall conformity to social norms.

According to this divide, there is a longstanding tradition to see shame and guilt as two distinct or even opposing models at organizing societies; a tradion, whicg has not always avoided cultural essentialism and othering. This lead dubious impression that shame would beas irrelevant for or even unknown to guilt cultures as guilt would be in shame – cultures.

In her influential book *Shame and Guild in Neurosis* (1971), Helen B, Lewis confesses that from a therapist’s perspective it is not always easy to discern clearly between feelings of shame and guilt or to disentangle the shame that kies hidden within feelings of guilt.

Psychologists John Sabina and Maury Silver, for example, argue against Tangney for identifying guilt as a positive emotion and shame as a destructive one, pointing out that “guilt and shame in people’s experience can not be so easily segregated and that, if there was a shameless guilt, it would be anemic and unable to fulfill any important social or moral function”.

Guilt is a legal element of the definition of involvement or the involvement of a person to the crime committed. The general theoretical sense, it is a mental attitude of the individual to his committed action which manifests itself in the realization of its commission, anticipation of socially dangerous consequences and desired their onset. However, to enhance the content of the judicial practice in the process of criminalization is not sufficient to legal definitions of guilt. Broading the range of offenses require significant stereotypically enshrined moral convictions, which according to D.Roubotam, “designed to gire meaning to judgement, to explain and to justify it”.

Shame is not a legal term, but it is directly related to the process of justice as a moral factor recognition of wrongdoing. And this factor is equally present in all froms of litigation.

Therefore, they claim that “ without the bite of shame, guilt lacks force”. In his recent research on the emotion of shame, Daniel Turnbull likewise argues;

“Shame can spur us to go beyond the minimum requirements to perform supererogatory actions, by making us reflect on the type of person we want to be. Shame can also help us recognize

wrong done in our name by groups of which we are members, leading us to demand that restitution is made and say “never again”.

Supporters of shaming punishments argue that the desire to banish shame altogether from modern judicial system is neither realistic nor feasible, and that certain degrees of shame are an inextricable part of any satisfactory punishment regime. (Bernard William, Shame and Necessity (Berkely, 1993), p.81.)

One of the most recent and powerful critical response to the traditional negative explanation of shame comes from Julien Deonna, Raffaele Rodogno, and Fabrice Teroni's In Defense of Shame: The Faces of an Emotion (2011). The authors regard the long-accepted view that shame is essentially a social and morally ugly emotion as “dogmas”. They argue that shame is not a socially – constructed or externally – imposed emotion since it doesn't require a real or imagined audience in order to occur. IN addition, although shame may sometimes, involve negative behavioural and psychological effects, it is nevertheless and emotion with great moral values which serve to promote virtuous behavior and social integration, and to guard and foster personal values.

Since the modern times the court in the proceedings drew attention not only to auctaritas, as it was in ancient times, but not bona FAMA (good rumor about the person), as it was in the middle ages, and especially on the legal, and last but not least – on the moral and religious character of human acts. In this case, the court is the bearer and expression of social reaction on offense committed. (Y.Nazarov 2015).

It should be noted that the judicial systems of some countries recognized the ability of the court to establish the truth of truth of the case was to come not only from society, but also from all parties involved in the proceeding.

Thus, when the verdict was announced in the most conservative systems of criminal justice concluded that convicted accept the verdict as a reasonable and fair.

That is why in Britain in the era of harsh justice system, populary called the “Bloody Codex” (XVI-XIXcenturies), applied severe pressure on the accused to obtain to oral statement on the person committing a crime, especially if the person conserved to 12-15% sentenced to death. The court as a show – this the true face of the judicial process in Britain in the Victorian era.

The prence of certain positive aspects of the process of criminalization combined with its inherent negative consiquences. Focus on the court the criminal low process contributet to the spread of an appropriate approach when considering other types of cases. So, RowbothamJ,cites the following insedent from the archives of the newspaper “Daily telegraph” of 1870: “ Mr. Edmund Buckland, commissioner of Battersea, was summoned to court on the claim of the London gas companies to explain the reason why he should not be jailed for failure to pay the Sum of 9 pounds 0 shillings 9 pence, which he is obliged to pay the in voice for consumed gas”

This example shows how a civil plaintiff under the claim for recovery of debt can get a distinct criminal shade. It should be noted that a person called to the court is not quitting the reasons for violations of the term of payment set out for the gas bill and is not explaining why he should not be jailed. It turns out that the establishment of the existence of the debt is not related to the subject matter of the proceedings.

From the above, it may be inferred that the elite with political authority has been in complete control of the administration of justice in society since the downfall of modern times. Its influence has grown as a result of the community's powers being gradually reduced to admissible justice, the judiciary being strengthened and power centralized, acts committed being consistently made illegal, the social justice movement taking root in court decisions, and the pervasive belief that a case will eventually be resolved.

The idea of unconditional establishment of the facts of the case was particularly interesting in Britain's Modern Times. It lies in the fact that if information on the actual circumstances cannot be established, it is necessary to rely on divine help.

References:

1. Bernard William, Shame and Necessity (Berkeley: University of California Press, 1993);
2. Bettoni. A. FAMA, shameful punishment and justice history (XVI-XVII centuries). Wine and shame in the context of the formation of the modern European states (XVI-XX centuries). St. Petersburg 2011, p. 28.
3. Deonna, Rodogno, and Teroni. In defense of shame esp. chapter 3 and 4.
4. Erhard , Werner.; Jensen, Michael C.; Zaffron, Steve, Integrity: a positive model that incorporates the normative phenomena of morality, ethics and legality (2009).
5. H. Lewis, "Shame and Guilt in Neurosis", in Psychoanalytic Review (197), 58, 3, S.426.
6. Iliya, N (2013). Rowbotham, J. The changing nature of censure.
7. Lim Brendon. The Normativity of the principle of legality (2013). 17 Melbourne University Law Review 372
8. Rowbotham, J. The changing nature of censure. Michael Srocker, " Shame Guilt and Pathological Guilt" in Alan Thomas.
9. Rowbotham, J. The changing nature of censure: review of approaches to the redistribution of shaming and guilt in the English criminal justice. (XVI-XX centuries). St. Petersburg 2011, p. 101.
10. Sabini and Silver, " In Defense of an Essential Moral: Emotion