

Paradigm Shift in the Purpose of Punishment Based on Thomas Aquinas' View and the Principle of the Law of Love

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ABSTRACT: The paradigm shift in the purpose of punishment based on Thomas Aquinas' views and the principle of the Law of Love marks a fundamental shift in modern criminal law thinking—from a retributive paradigm to a restorative and rehabilitative paradigm. In classical thinking derived from absolute theory, punishment is understood as a means of retribution against criminals alone. However, Thomas Aquinas, through the doctrines of Poena ut Poena and Poena ut Medicina, introduced moral and spiritual dimensions to punishment, namely that punishment is not only to inflict suffering, but also as a “medicine” that heals the perpetrator of their moral wrongdoing. Aquinas' thinking cannot be separated from the principle of the Law of Love (Lex Caritatis) which originates from the teachings of Jesus Christ, that every human being—including criminals—has the potential to repent and improve themselves. Therefore, punishment must be directed not only to punish, but also to restore human dignity and restore moral balance in society. In the context of Indonesian positive law, this spirit is in line with the values of Pancasila, especially the first principle, “Belief in One God,” which places law within a divine moral framework. The reform of criminal law through the National Criminal Code is an important moment to reorient the purpose of punishment from retribution to rehabilitation, protection of society, and repentance of offenders. Thus, changing the paradigm of the purpose of punishment based on Thomas Aquinas' views and the principle of the law of love is an effort to build a humanistic, theocentric, and substantively just criminal law system, in which the law is not only an instrument of retribution, but also a means to heal, love, and uphold true justice.

KEYWORDS: Purpose of Punishment, Law of Love, Poena ut Medicina, Rehabilitation

I. INTRODUCTION

Thomas Aquinas, a great thinker of the scholastic era, was born into an aristocratic family in Roccasecca, Italy, in 1225. He continued his education at the University of Paris in 1245, and in that same year, Thomas Aquinas joined the Dominican Order, one of the Catholic orders whose purpose was to preach the gospel. (Taufik, 2020) In the Dominican Order, Thomas Aquinas tried to develop his intellectual abilities by harmonizing them with the teachings of the gospel. Thomas Aquinas produced many works, including Summa Theologiae, Scriptum super Sententiis, Summa Contra Gentiles, and many more. Thomas Aquinas' concepts are often used not only by theologians but also by political and legal experts. (Setiawan, Wulandari, Olivia, Riyanti, & Juniari, 2022)

In the context of law, Thomas Aquinas's concepts are often used as guidelines for policy making, especially in the field of criminal law. Poena ut Poena, Poena ut Medicina are concepts used in the purpose of punishment and have greatly changed the structure and purpose of punishment in the legal world, which was originally steeped in the theory of Absolutism, also known as the theory of retribution. Poena ut poena, poena ut medicina, or in Indonesian, "Punishment as punishment and as medicine," is an Aquinas doctrine from the perspective of Catholic teaching, where the Catholic Church, which is steeped in the teachings of the Law of Love taught by Jesus Christ in the early first century, attempts to change people's perspectives in order to give those who have done wrong in life the opportunity to change their lives for the better. This can be seen in the teachings of Jesus as written in the Bible or the Catholic scriptures.

The philosophy of the purpose of punishment in the Wetboek van Strafrecht voor Nederlandsch Indie (WvS) uses old theories such as the absolute theory or the theory of retribution, which originated in the classical school of criminal law initiated by legal experts including Immanuel Kant, Hegel, Herbart, and Julius Stahl, although according to Remmelink, their ideas, which are classified as absolute theories, differ from one another. The relative theory, which seeks the basis for punishment, is as a means of enforcing order and the criminal objective of preventing crime. Cesare Beccaria and Jeremy Bentham are experts who contributed to the development of this theory. In his book "On Crimes and Punishments" (1764), Cesare Beccaria emphasized the importance of justice and proportionality in punishment, as well as the need for a prevention-oriented legal system. Meanwhile, Bentham developed the principle of utilitarianism, which assesses actions based on their consequences and benefits to society. (Hiariej, 2024)

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There are also new theories that have emerged from modifications of the three theories above. The theory of rehabilitation is one that has attracted a lot of attention because it is contrary to the concepts of Immanuel Kant and Hegel. According to Prof. Eddy Hiarij in his book *Principles of Criminal Law*, the theory of rehabilitation has been around for a long time and was introduced by Thomas Aquinas. Thomas Aquinas, with his religious perspective, tried to change the way people thought at that time, at least in the 13th century AD, to give people who had done wrong the opportunity to change. This was based on his own reflections as he tried to deepen his understanding of Catholic teachings in the Bible while he was in the Dominican Order, which had the goal of spreading the gospel.

Thomas Aquinas's thinking on the purpose of punishment based on the law of charity (*lex caritatis*) later became the philosophical basis for the emergence of a new paradigm in the modern criminal justice system, namely the shift from retributive justice to restorative justice. Within Aquinas' framework, punishment is not a means of repaying crime with suffering, but rather an effort at moral and social healing, in which the offender is guided to realize their mistake, improve themselves, and restore harmony in society. Thus, the function of punishment is no longer limited to punishment, but also includes rehabilitation and restoration.

This concept is closely related to the spirit of contemporary criminal law in Indonesia, especially after the enactment of the National Criminal Code (Law No. 1 of 2023). The new Criminal Code emphasizes the importance of balance between legal certainty, justice, and benefit. In this context, the spirit of the law of love proposed by Thomas Aquinas becomes very relevant, because it places humans as moral subjects who have the potential to change. The purpose of punishment is no longer to cause suffering, but to encourage the offender's personal improvement so that they can return to functioning socially in society.

Aquinas' thinking also contains a theological ethical dimension that can be integrated with a sociological approach to law. According to Aquinas, law is part of a higher moral order, namely divine law (*lex divina*), which must be oriented towards the common good (*bonum commune*). Therefore, justice in criminal law cannot be separated from the moral and spiritual values of society. This view teaches that criminals are still human beings who have dignity and the right to a second chance. This is where the relevance of *Poenae ut Medicina* lies—that punishment must be a cure for moral damage, not merely a means of retribution for past mistakes.

Empirically, the criminal justice system in Indonesia still tends to be oriented towards a retributive paradigm. Empirical data shows that the rate of recidivism or repeat offenses remains quite high from year to year, indicating that imprisonment has not been entirely successful in achieving its rehabilitative function. Therefore, Thomas Aquinas' ideas need to be used as philosophical reflections in the process of reforming national criminal law, so that the direction of sentencing policy does not stop at punishment, but transforms into a means of moral and social improvement.

Thus, the paradigm of the law of love as taught by Aquinas is a conceptual alternative that can complement modern theories of punishment. It does not reject the function of punishment, but places it in a broader moral framework—namely, the restoration of social order through love and justice. This thinking is in line with the direction of Indonesia's criminal law policy, which is now beginning to adopt the principle of restorative justice, where the purpose of punishment is no longer merely to avenge crime, but to restore balance and harmony in society.

Therefore, it is important for this study to examine in depth the paradigm shift in the purpose of punishment based on Thomas Aquinas' views and the principle of the law of love. This study is not only theoretical, but also a practical contribution to the reconstruction of a more humanistic, just, and universal moral values-based national criminal law.

II. PROBLEM

A. Problem Formulation

From the introduction that the author has described above, the problem formulations that will be studied in this study are:

1. How can Thomas Aquinas' views and the principle of the law of love influence a paradigm shift in the purpose of punishment in the modern criminal law system?

B. Research Objectives

1. This paper aims to analyze Thomas Aquinas' views and the principle of the law of charity (**lex caritatis**) and examine how the moral and philosophical values contained therein can influence a paradigm shift in the objectives of punishment in the modern criminal justice system, from a retributive orientation to a more humanistic, restorative, and substantively just paradigm.

III. RESEARCH METHOD

The research method used is a normative-philosophical juridical approach, analyzing legal doctrines, classical and modern theories of punishment, and theological values in the law of love.

IV. DISCUSSION

A. The Views Of Thomas Aquinas And The Principle Of The Law Of Love Can Influence A Paradigm Shift In The Purpose Of Punishment In The Modern Criminal Justice System

The old Criminal Code inherited from the Dutch, namely the *Wetboek van Strafrecht voor Nederlandsch Indië*, is a product of colonial law that strongly emphasizes retribution and order alone, thus failing to accommodate humanitarian values and the principle of Godliness that forms the basis of the Indonesian state. This is inseparable from the influence of well-known theories on the purpose of punishment, which often serve as guidelines for punishment in various countries, including: The Absolute Theory, also known as the Retributive Theory (retributive theory or *vergeltings theorien*), emerged in the 17th century. (Rivanie, Muchtar, Muin, Prasetya, & Rizky, 2022) This theory is supported by several important figures such as Immanuel Kant, Hegel, Herbart, Leo Polak, and Julius Stahl. According to this theory, punishment is imposed solely to provide a result for the actions committed by the perpetrator of the crime. This principle is in line with Hugo Grotius' statement that *malum passionis propter malum actionis*, which means that evil suffering befalls a person because of the evil deeds they have done. A similar view was expressed by Johannes Andenaes, who stated that punishment is a means of satisfying the victim's sense of justice, so that the punishment is considered fair if the perpetrator receives the punishment prescribed for the crime committed. Immanuel Kant viewed punishment as a moral imperative; for perpetrators who have committed crimes, punishment is a moral command that must be carried out. (Fardha, 2023) Hegel also argued that punishment is a logical consequence of a crime committed. In addition, Kant believed that crime causes injustice, so that injustice must be repaid with injustice in the form of punishment. Herbart added that when someone commits a crime, they cause dissatisfaction in society. Therefore, society must be satisfied by imposing criminal punishment so that this satisfaction can be restored. Julius Stahl argued that God created the state as his representative in to uphold the law in the world, so criminals must be punished so that the law can be upheld again. (Rivanie et al., 2022)

In the context of criminal law reform, the concept of the purpose of punishment developed by Thomas Aquinas, which emphasizes punishment as a means of restoration (*poena ut medicina*) and not merely retribution, is an ideal approach to apply. Aquinas' thinking is in line with the spirit of the Indonesian nation as reflected in the values of Pancasila, especially the first principle. As stated by Prof. Moeljatno, laws that are not accompanied by the knowledge of God are incomplete, and therefore, the reform of Indonesian criminal law must reflect the law of God. (Tanya, Bernard; Simanjuntak, Yoan; Hage, 2013).

Thomas Aquinas, whose concepts influence the purpose of punishment in criminal law, is aligned with Rehabilitative Theory. *Poenae ut Poena*, *Poenae ut Medecine*, concepts introduced by Thomas Aquinas, attempt to change the perspective in criminal law. For decades, criminals have always been viewed as scum of society even after they have served their sentences. In Thomas Aquinas's thinking, humans should be given the opportunity to improve themselves and also be healed morally and spiritually, as taught in the law of love taught by Jesus in the Catholic scriptures. In John 8:1-11, which tells the story of a woman who was condemned: While Jesus was teaching in the temple, the teachers of the law and the Pharisees brought in a woman caught in adultery, who according to the law should be punished. When the people wanted to stone the woman, Jesus said, "Let him who is without sin among you be the first to throw a stone at her." After everyone had left, Jesus said to the woman, "Neither do I condemn you. Go, and sin no more." (Indonesian Bible Society, 2005) This is one example of the opportunity given to the adulterous woman to improve her life and illustrates the meaning of the Law of Love itself. Catholics always take the story of Jesus' life in the Bible as a guide for life. Likewise, Thomas Aquinas gave his thoughts by adhering firmly to the teachings in the Bible. The legal system should be built in a structure that is centered on and based on God's will. This configuration of the legal system is a Thomas Doctrine, which begins with (i) *Lex Aeterna*, which is the highest law and is the will of God Himself, (ii) *Lex Naturalis*: general principles or what is known as natural law, (iii) *Lex Devina* or the Law of God found in the Holy Scriptures, (iv) *Lex Humane* or man-made laws that are in accordance with natural law. (Tanya, Bernard; Simanjuntak, Yoan; Hage, 2013) Law is essentially a reflection of the divine order. National laws are only meant to clarify and explain this divine order. Therefore, our national laws, or the National Criminal Code, must reflect the values of God Himself.

The Law of Love is also the core of Christian teachings as a whole, whether in Catholicism, Orthodoxy, Protestantism, or other religious denominations that believe in Jesus as the Son of God and as God Himself. In Matthew 6:9-13, Jesus teaches his followers a prayer that is sacred to Christians, known as the Our Father, which reads as follows: Our Father in heaven, hallowed be your name, your kingdom come, your will be done, on earth as it is in heaven. Give us this day our daily bread. Forgive us our sins, as we forgive those who sin against us. And lead us not into temptation, but deliver us from evil. [For Yours is the kingdom and the power and the glory forever. Amen.] There is a passage in this prayer that is very difficult to realize in the life of a Christian, namely, "Forgive us our trespasses, as we forgive those who trespass against us." This passage is the theological basis of this principle. This prayer reflects that every individual, including criminals, remains within the scope of God's love, and therefore, punishment must take into account the principle of forgiveness.

In the context of positive law, this can be interpreted as giving convicts the opportunity to regret their actions, repent, and return to being useful members of society, a process that would be impossible if punishment were carried out cruelly and without love. This should be reflected in the new Criminal Code, which should not only be oriented towards retribution, but also towards the protection of society, deterrence, and rehabilitation. By making the values of Pancasila, especially the first principle of belief in

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God, the philosophical basis, the approach of Thomas Aquinas and the law of love becomes very relevant in building a humane national legal system. Therefore, the renewal of the objectives of punishment in the WVS Criminal Code needs to be directed not only towards upholding formal justice, but also substantive justice based on the values of love, forgiveness, and repentance. Punishment should be a bridge to salvation, not the end of life for someone who has lost their way. This is the essence of the law of love believed by Thomas Aquinas, a call to not only punish but also to love.

Furthermore, the application of the principle of love taught by Thomas Aquinas in the modern criminal justice system not only has a theological dimension, but also contains universal human values that are in line with the development of contemporary criminal law. The paradigm of punishment based on love and rehabilitation is now being adopted by various legal systems around the world, including Indonesia. This is reflected in the new National Criminal Code (KUHP), particularly in Articles 51 to 54, which emphasize the importance of the purpose of punishment not only to inflict suffering, but also to nurture, reform, and return criminals to society (Republic of Indonesia, 2023). This approach shows a paradigm shift from a retributive punishment system to a restorative and rehabilitative system. In this context, Thomas Aquinas's idea of *poena ut medicina* becomes relevant, as it places punishment not as a means of retribution, but as an effort to heal the offender morally and spiritually. As emphasized by Barda Nawawi Arief, the reform of Indonesian criminal law must be directed towards realizing substantive justice that is humane and socially just, not merely formal justice that is legalistic in nature (Arief, 2010).

In addition, the concept of *lex caritatis* (law of charity), which forms the basis of Aquinas' thinking, provides a moral foundation for the formation of just laws. According to Aquinas, ideal laws are not only for maintaining order, but also for achieving *bonum commune* or the common good. Thus, every act of punishment must have a moral purpose, namely to repair the relationship between individuals, society, and God. This view is in line with the theory of Restorative Justice, which is now a new orientation in the national criminal justice system. Restorative justice seeks to bring perpetrators and victims together in a process of social healing, where forgiveness and repentance are an integral part of justice (Zehr, 2002). Thus, the values of the law of love as expressed by Thomas Aquinas can become the philosophical and ethical foundation for the reconstruction of the Indonesian penal system. The law is no longer seen as an instrument of power that punishes, but as a means to nurture and redeem human error. Punishment should be part of a moral reintegration process, in which offenders are not only punished, but also restored to their human dignity. This is in line with Muladi's view that modern punishment must be oriented towards a balance between protecting society, the interests of victims, and the rehabilitation of offenders (Muladi, 1995).

Based on theological, philosophical, and humanitarian values, Indonesian criminal law in the future is expected to reflect the principle of complete justice: justice that upholds the law while also healing humanity. The reconstruction of the objectives of punishment based on the views of Thomas Aquinas and the law of love is not only a moral step, but also a philosophical and constitutional necessity to uphold God-fearing, humane, and socially just laws as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia.

V. CLOSING

A. Conclusion

The paradigm shift in the purpose of punishment based on Thomas Aquinas' view and the principle of the Law of Love marks a fundamental shift in modern criminal law thinking from a retributive paradigm to a restorative and rehabilitative paradigm. In classical thinking derived from absolute theory, punishment is understood as a means of retribution against criminals alone. However, Thomas Aquinas, through the doctrines of *Poena ut Poena* and *Poena ut Medicina*, introduced moral and spiritual dimensions to punishment, namely that punishment is not only to inflict suffering, but also as a "medicine" that heals the perpetrator of their moral wrongdoing.

Aquinas's thinking cannot be separated from the principle of the Law of Love (*Lex Caritatis*) which originates from the teachings of Jesus Christ, that every human being—including criminals—has the potential to repent and improve themselves. Therefore, punishment must be directed not solely at punishing, but also at restoring human dignity and moral balance in society. In the context of Indonesian positive law, this spirit is in line with the values of Pancasila, particularly the first principle, "Belief in One God," which places law within a divine moral framework. The reform of criminal law through the National Criminal Code is an important moment to reorient the purpose of punishment from retribution to rehabilitation, protection of society, and repentance of the perpetrator.

Thus, the paradigm shift in the objectives of punishment based on Thomas Aquinas' views and the principle of the law of love is an effort to build a humanistic, theocentric, and substantively just criminal law system, where the law is not only an instrument of retribution but also a means to heal, love, and uphold true justice.

B. Advice

Based on the results of research and discussion regarding the Paradigm Shift in the Purpose of Punishment Based on the Views of Thomas Aquinas and the Principle of the Law of Love, the recommendations that can be given consist of two main aspects, namely the normative aspect and the implementative aspect:

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1. Normative Aspect – Renewal of Philosophy and Criminal Punishment Objectives in the National Legal System

Lawmakers need to reorganize the normative orientation of the Indonesian criminal law system to emphasize the values of humanity and divinity as taught by Thomas Aquinas through the principle of *lex caritatis* (law of love). The criminal justice paradigm, which has been dominated by retributive and utilitarian approaches, needs to shift towards a system that is more oriented towards restoration (restorative) and healing (rehabilitative).

In the context of reforming the National Criminal Code, the principle of *poena ut medicina*—that punishment serves as a “medicine” to restore offenders from their moral wrongdoing—should be used as a philosophical basis in formulating the objectives of punishment. This is in line with the values of Pancasila, particularly the first principle of Belief in One God, which demands that Indonesian law not only reflect formal justice, but also substantive justice based on divine morality. Thus, criminal law should not stop at enforcing order, but must be a means to restore the dignity of human beings as creatures of God.

2. Implementative Aspects – Strengthening Humanistic and Substantive Justice Practices in Punishment

In the implementation of criminal law, law enforcement officials—judges, prosecutors, police, and correctional institutions—need to apply the principles of love and forgiveness as the moral basis in every stage of law enforcement. Punishment should no longer be interpreted as mere suffering, but as a means of guidance to reform, enlighten, and return the perpetrator to a moral life. Therefore, the punishment system should be directed towards a model of spiritual, social, and moral guidance that provides space for the perpetrator to repent and contribute back to society.

The government and correctional institutions also need to strengthen rehabilitation and social reintegration programs based on religious and humanitarian values, involving the community, religious institutions, and the families of both victims and offenders. This kind of approach will foster a more empathetic and humane legal culture, so that the law truly functions as a means of substantive justice, not merely an instrument of retribution.

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