

## Analysis of the Ethics of Justice in the Philosophy of Law in the View of Thomas Aquinas

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### ABSTRACT

This research aims to determine the ethics of justice in legal philosophy according to the views of Thomas Aquinas. The research method used in this research is a normative legal research method through descriptive literature study utilizing library sources to collect data. How to collect data for this research, researchers collect materials such as books, articles, journals and writings of experts to study and understand the theory after data collection, the researcher will analyze and add important information that is appropriate to the study. The method of analysis through a historical and philosophical approach to the relationship of natural law in people's lives, to the basic changes regarding the role of law as *ius quia iussum* to *jus quai iustum* and the impact of legal philosophy according to Thomas Aquinas, can build legal methods that are more just and honest, and create a more balanced society, harmony and prosperity.

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### INTRODUCTION

Indonesia is a state of law that is guided by a provision, namely the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution). Article 1 Paragraph (3) of the 1945 Constitution states that Indonesia is a state of law. Law has an important role in regulating social life so that it is balanced and fair. Not only for the community, but also for all parties including the authorities and the state itself. Attitudes, behavior and actions (ethics) must be in accordance with the law.

Theoretically or philosophically, ethics and law are two entities that are closely related but different in their enforcement. Ethics is the field where law is found, while law itself is the embodiment of law that has been sanctioned and formalized. In legal philosophy, the level of law starts from values, principles, norms and laws. In this conception, ethics is at the level of norms and principles, thus the position of ethics is far above the law. This affects how the law is applied

in society through a reflection of the values and justice upheld by the state and society in Indonesia.

St. Thomas Aquinas is one of the Italian philosophers who participated in defining the concept of justice. He describes justice in the constellation of social relations between people. Justice directs humans in their relationships with others (*ad alterum*). He divided the concept of justice into two parts. First, universal justice in human relations, namely giving what is rightfully theirs. Second, special justice, namely distributive, exchange, and retributive justice. Thomas Aquinas also meant that human law is never eternal because only God's law is eternal. He divided law into two parts, namely eternal law (divine law and natural law) and human law (positive law) which are interconnected. That is, human law is binding as long as it is in accordance with human reason. Human reason participates in the mind of God because humans are created in His likeness. Therefore, the thoughts of human reason must reflect God's plan. For Thomas Aquinas, human reason can produce rules that can guide human life because God's intelligence flows into human reason, so the relationship between divine law and human law is very close. Meanwhile, positive law is defined as a law made in society. He believes that law is based on a code of behavior that limits or prohibits certain actions and on reason and has the power to make things happen because it is based on what is right. As for natural law according to Thomas Aquinas, it must be emphasized because the law is not the result of an agreement like human law but applies universally, permanently and throughout time. Natural law is based on the customs of every society.

Along with the many positives brought by positivist thinking, there is also a buildup of negatives that are often seen as the cause of non-observance of the law. It cannot be denied that justice is the basis of a classic problem that has not been solved completely. Based on the description above, the purpose of this research is to analyze ethics in realizing justice in the perspective of legal philosophy through the views of St. Thomas Aquinas.

The formulation of the problem that is the reference in this study: 1) Is there any relevance of justice ethics in the perspective of legal philosophy? 2) How is the implication of legal philosophy on ethics in realizing justice according to St. Thomas Aquinas?.

Based on the formulation of the problem, the research objectives include 1) To analyze the relevance of the ethics of justice in the perspective of the philosophy of law. 2) To find out the implications of legal philosophy on ethics in realizing justice according to St. Thomas Aquinas.

## METHOD

The research method used in this research is normative legal research method through descriptive literature study by utilizing literature sources to collect data. How to collect data for this research, researchers collect materials such as books, articles, journals, and writings of experts to study and understand the theory. After collecting the data, the researcher will analyze and add important information in accordance with the study. The method of analysis is through historical and philosophical approaches.

## RESULTS AND DISCUSSION

### **The Relevance of Justice Ethics in the Perspective of Philosophy of Law**

Thomas Aquinas states that the benefits of the rule (law) are for the welfare of society. people in a country must feel that welfare. Thomas Aquinas states how important the law is as one of its tools. Not only positive law is important, but natural law must also be considered. Natural law is rooted in human nature, moves on human nature and is directed towards the welfare and happiness of humanity itself. Natural law is known as natural law that is considered universal and inherent in humans based on reason and human nature. Natural law is different from positive law, where positive law is a rule made by humans and applies in a particular country or society. Thus, natural law is a guideline and model for the quality of human behavior.

The relationship between natural law and certain circumstances in social life is seen in the change in the basic view of the role of law as *ius quia iussum* (law applies because it is imposed) to *ius quia iustum* (law applies because it is fair), the change from understanding the law based on its form to understanding the meaning of the content contained therein. In the content of the law is emphasized because it contains ethical and moral values. natural law is rational of every human action and connects morality and legality. Delineating a universal understanding of law and its basis that encompasses all aspects of human life is not easy.

According to Thomas Aquinas, the analysis of the ethics of justice and the philosophy of law centers on justice as an ability to establish laws that are in accordance with the public interest. justice is "*iustitia est habitus secundum guem aliquis constanti et perpetua voluntate ius suum unicuique tribuit*" justice is the habit of establishing laws in accordance with the public interest by fixed and continuous decisions.

Thomas Aquinas divides justice into two: general justice (*Justitia generalis*) and special justice (*Justitia specialis*). General justice refers to justice that applies openly / comprehensively and special justice leads to specific justice in different situations and contexts. general justice is more centered on the public interest while special justice is centered on individual / personal interests.

In Thomas Aquinas' view, he divides justice into three parts: distributive justice, commutative justice and legal justice. distributive justice centers on the fair distribution of resources, commutative justice centers on righting wrongs and legal justice centers on upholding the law. In his analysis of the ethics of justice, Thomas Aquinas emphasized the importance of maintaining justice as a basic value in society. Thomas Aquinas said that justice must be realized through fair law enforcement and strengthening morality among people. thus, justice is not only based on solving problems, but also on building a just and harmonious society.

In the perspective of the philosophy of justice according to Thomas Aquinas, Justice is an inseparable part of the legal mind itself. as a social value, justice has a very broad meaning. This is what attracted the attention of ancient Greek philosophers to think about the problem of justice. Thomas Aquinas (1225-1274 AD) is one of the philosophers who spread the thought of Aristotle (384-322 AD). At the age of 20 Thomas Aquinas became a resident of a male monastery and Albert the Great as a teacher (1200-1280 AD). Albert the Great himself was a philosopher who animated much of Aristotle's thought through Arabic-Greek translations.

According to Thomas Aquinas, what is more important than justice is "*aliquid opus adaequantum alteri secundum aequalitas modum*", which is something that is obedient to society based on proportional equality / balance.

St. Thomas Aquinas stated that simplicity, firmness, and wisdom, justice is one of the virtues of life. This virtue is related to the power of thought, mind, feelings, and will.

Justice according to Thomas Aquinas' idea is equality. According to him, justice is related to what a person should receive according to a proportional/balanced equality.

Thomas Aquinas distinguishes justice into two, namely general justice (*iustitia generalis*) and special justice (*iustitia specialis*). General justice is the concept of justice that relates to human relations by giving what is rightfully theirs. General justice is the justice that the law requires to be done for the sake of public interest. Aquinas' opinion is understood by Gilby, who states that justice is the value of equality placed at various levels in accordance with what should happen because of the common good of political society (*Justitia generalis*), between individuals (*Justitia commutativa*), and between individuals and political groups (*Justitia distributiva*).

Meanwhile, according to Albert the Great in his book *Summa de Bono*, it is stated that generally justice is understood in three ways. In one of these ways there is no mention of special virtue, but it is better to call it public virtue. According to Albert, the influence of love and grace in virtue is the general justice that causes people to be unjust. But according to Albert, justice is also understood by the event is all the habits of behavior in each person.

Based on Thomas Aquinas' idea of public justice, the point of justice is to lead people to the common good (*bonum commune*), hence justice is also called public virtue (*virtus generalis*). However, public justice does not only follow social laws, but rather the custom of following the decisions or instructions of legal authorities.

Special justice in the opinion of Thomas Aquinas consists of distributive justice (*Justitia distributiva*), commutative justice (*Justitia commutativa*), and vindicative justice (*Justitia vindicativa*).

#### 1. Distributive justice (*Justitia distributiva*)

Distributive justice is a form of respect for the dignity of the human person. distributive justice is a design of justice that wants everyone to get what is rightfully theirs in balance.

Therefore, justice is not achieved by merely determining the actual value, but is also based on the balance between one thing and another (*aequalitas rei ad rem*). In the context of law enforcement, of course, the law must be based on distributive justice, the suitability of the rules to the behavior carried out, and its social purpose.

Furthermore, in the context of government, distributive justice is a form of justice that establishes a relationship between the state and society. In relation to the government system, distributive justice leads to the role of the government and government system in distributing rights and obligations in a fair and balanced manner for all people.

Thomas Aquinas affirmed, "*Alius ordo attenditur totius ad partes, et huic ordini assimilator ordo eius quod est commune ad singulas personas. quum quidem ordinem dirigit Justitia distributiva quae est distributive communium secundum proportionalitatem*" which means that in the other place, there is a relation of the whole to its parts, which relates the orderly relationship of what belongs to the community in relevance to each individual. relevance is governed by distributive justice, which distributes public rights in balance.

#### 2. Commutative justice (*Justitia commutativa*)

The context of legal philosophy concerns fundamental questions about rules. as a supreme legal ideal, justice is one of the benefits of legal philosophy. justice of equality distinguishes positions in social life. commutative justice is the primary relationship between individuals in society, and justice regulates interpersonal relevance. commutative

justice requires giving to someone equally. according to commutative justice, it is said to be fair if everyone gets equal action regardless of position, gender and merit, there is no preferential action.

### 3. Vindicative justice (Justitia vindicativa)

Vindicative justice is justice that requires the provision of punishment in accordance with the actions made. vindicative justice tends to retaliation (repression). According to Aristotle, this kind of retribution is often implemented in the field of criminal law with equal or proportional parts between the action and the rules given. Based on vindicative justice, it is considered fair if the action against is imprisonment, but must compensate for the damage caused by the action. In a further context, the concept of vindicative justice has been embraced by Indonesia. The concept of vindicative justice is lifted from Article 6 of Law No. 12/2011 on the formation of laws and regulations, which stipulates that every content material of laws and regulations must reflect justice in a balanced manner for every citizen.

Based on the above understanding, it can be concluded that general justice is related to human relations by giving what is rightfully theirs. And special justice consisting of distributive justice emphasizes the distribution of rights and obligations in a balanced manner, commutative justice emphasizes interaction through exchanges between individuals, while vindicative justice leads to appropriate retribution.

## **Implications of Legal Philosophy on Ethics in Realizing Justice According to Thomas Aquinas**

According to Thomas Aquinas, the law should be based on public peace, not private interests or rulers. Equal and wise rules should be implemented to achieve justice and public welfare. In his view, rules consist of 2 parts: eternal/eternal law (divine and natural law) and human law (positive law). eternal/eternal law equates to God's will, while human law must be proportional to the human thinking power that participates in God's reason.

Thomas Aquinas also argued that ethics should be based on stable reasoning and look at morality. Stable reasoning can guide society on the path of right and good, enabling it to make generalizations and deductions. In the view of ethics, there are various moral determinations that must be taken into account, including the belief in the purposeful will and the impact of the teachings and realities of religious knowledge.

In creating justice, Thomas Aquinas thought that laws should aim at the general welfare and be based on good reasoning. Rules should be proportionate and wise, and look to the general welfare, justice, peace, security, and guarantees for the people. Thus, rules can help achieve justice and general welfare, and fulfill the ultimate goal of human beings, which is to achieve happiness.

Thomas Aquinas' philosophy of law explains the essential foundation for moral knowledge and justice in rules. Here are 5 implications:

- 1 Just law is rooted in natural law  
St. Thomas Aquinas stated that just law must be guided by natural law, which is a universal law derived from human reasoning and comparable to the power of God. Positive law designed by humans must reflect natural law to be just and ethical.
- 2 Justice as a fundamental virtue  
Justice for Thomas Aquinas is the fundamental good that enables man to live in proportion to his powers and create the common good. Rules must be established to uphold justice, by giving everyone equal rights and duties.
- 3 Three types of justice

St. Thomas Aquinas divided justice into three types:

- a Commutative Justice: centers on proportionality in exchanges and agreements between people, ensuring that no party is disadvantaged.
  - b Distributive Justice: Deals with the fair distribution of resources and wealth in society, in accordance with the needs and contributions of each.
  - c Legal justice: requires adherence to fair rules and the orderly and unilateral implementation of laws.
- 4 Law as a Tool for the Common Good  
Law, according to Thomas, is not only an object to enforce security, but also a tool to achieve the common good. Just norms must promote decency and goodness in society, and create conditions that allow people to open up and live prosperously.
- 5 Ethics as a Moral Compass for Law Enforcers  
For Aquinas, enforcers have an ethical responsibility to uphold principles fairly and morally. They must act honestly, without favoring one party over another, without suspicion, and support human rights.

### Present Implications

Aquinas' views on the philosophy of law and justice are still important today. In advanced conditions, its principles can be implemented for:

- a Evaluate and reform basic methods to make them more fair and ethical.
- b Guide correct and responsible legal decision-making.
- c Promoting responsibility and invisibility in law enforcement
- d Promote a legal culture that upholds justice and human values .

By knowing the implications of Thomas Aquinas' philosophy of law, it can establish fairer and more honest legal methods, and creating a more harmonious and prosperous society.

. Thomas Aquinas, a medieval Catholic philosopher and theologian, made an important dedication to the views on the philosophy of law and justice. His ideas, contained in his magnum opus *Summa Theologica*, have profound implications for the ethics of realizing justice.

The philosophy of law provides a theological view of law stating that there is a law for a specific purpose and to achieve the goals that require its implementation.

### Indonesia's Legal Gaps

Thomas Aquinas' view that the law comes from the form of reason with the intention of public welfare cannot be accepted with good sense because the law in Indonesia reveals that, "impressed Sharp downward Blunt Upward". The law intended by Thomas Aquinas is a law that is not important for individuals or rulers and groups (some people), but for the public interest. But this is contrary to the view that Thomas Aquinas meant, because only the ruler or certain groups control the law while punishment only applies to the low class and cannot prosper. In Indonesia, the justice of the law must be the same because those who make the rules are humans and the rules must also make humans good, peaceful and prosperous.

According to Thomas Aquinas, the rules of society will not be eternal because only God's rules are eternal. Thus, Thomas Aquinas divided the rules into two, namely eternal law and positive law. For Thomas Aquinas, the two are interconnected, meaning that the human mind participates in God's mind because humans are created in the image of God. For Thomas Aquinas, human thinking can create a number of norms that can foster human life.

## CONCLUSION

*Analysis of the Ethics of Justice in the Philosophy of Law in the View of Thomas Aquinas - Yosep Copertino Apaut et al*

Ethics and law are two concepts that are closely related, but differ in their application. Ethics is the basis on which law develops, while law itself is a formalized rule that comes with sanctions. Natural law, or the law of nature, is considered universal and inherent to humans because of their intellect and nature, in contrast to positive law which is a man-made rule that applies in a particular society. Thomas Aquinas' view of justice underscores the importance of just laws and makes justice an integral part of the purpose of law. Aquinas divided justice into two main categories: general justice, which relates to human relationships as a whole, and particular justice, which is more specific. Special justice includes three forms: distributive justice, which emphasizes the proportional distribution of rights and duties; commutative justice, which focuses on equal exchange between individuals; and legal justice, which ensures consistent enforcement of the law. According to Aquinas, just law derives from natural law and justice as a fundamental virtue. His principles include law as an instrument for the common good and ethics as a moral guide for law enforcement. The impact of Aquinas' philosophy of law in the modern era is seen in the application of fairer legal methods, transparency in decision-making, and law enforcement that respects human values, which aims to create a harmonious and prosperous society. To understand the ethics of justice in legal philosophy, readers need to explore Thomas Aquinas' views on justice in order to apply them in making responsible decisions, supporting law enforcement that upholds human values, and contributing to the creation of prosperity and harmony in society.

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