

How Did Medieval Ecclesiastical Criminal Law Impact the Ideology of Contemporary European Criminal Law

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Abstract: This paper explores the correlation between medieval ecclesiastical criminal law and contemporary European criminal law, as well as how the former has influenced the ideology of the latter. This work initially presents the contextual background and rationale for the chosen topic, subsequently provides a comprehensive overview of existing research in this field, and subsequently advances three hypotheses in the main body of the paper: the transition from customary law to written law, the perpetuation of original sin theory, and the establishment of theoretical principles within criminal law. These hypotheses are then systematically examined to derive conclusive findings. Based on my research, it can conclude that all three hypotheses hold true. This investigation contributes to bridging an intentional gap overlooked by theoretical constructions and approaching an authentic understanding of history.

Keywords: medieval ecclesiastical criminal law, contemporary European criminal law, Christianity, Bible

1. Introduction

From the 5th century to the 13th century, religious theology held a position of utmost reverence in Western society, with religious doctrines effectively supplanting laws and regulations in fulfilling the responsibility of maintaining social order. The omission and avoidance of medieval civilization's contribution to modern criminal law thought by scholars during the Renaissance and Enlightenment periods was a deliberate strategy aimed at completely negating the rationality underlying its superstructure, representing an inevitable outcome of the humanist liberation movement guiding mainstream values.

The Middle Ages, often described as "long and dark" in literary works, is a historical period that is frequently overlooked by Western criminal law thought. From the perspective of criminal justice, this era exhibited characteristics of cruel punishment and discretionary decision-making. However, it primarily emphasized the detrimental consequences resulting from the distortion and exploitation of Christian doctrine by the feudal church and aristocracy, disregarding the progressive and rational aspects inherent in Hebrew-Christian culture itself.

After a millennium, we aim to maximize historical accuracy by deliberately restoring the fracture points that were avoided in theoretical construction, thus revealing its true face and justifying the significance of the Middle Ages.

2. Literature Review

Scholars have extensively examined the impact of Christian teachings on criminal law. Bonney, Richard delves into the influence of Christianity in Europe during the early modern period, with particular attention given to how the Reformation shaped notions of crime definition and punishment [1]. Additionally, Marshall, Christopher D. explores how Christian teachings and values have influenced contemporary criminal law systems by exploring concepts such as mercy, forgiveness, and social resilience [2]. Rutherford, Andrew critically analyzes the effect of Christian teachings on criminal law thought in Western liberal countries from a human rights perspective, offering a critique on the religious aspects of criminal punishment [3]. Cibulka, Albin provides an insightful overview of medieval European criminal law system in his book *Crime and Punishment in the Middle Ages* emphasizing the role played by Christian doctrine in shaping conceptions of crime and punishment [4].

What's more, scholars have turned their attention to the evolution of criminal law thought. For instance, Langbein, John H. examines the progression of criminal law from the Middle Ages to modern times, encompassing the influence of Christian doctrine and the development of legal traditions [5]. Additionally, Leithart, Peter J. explores the genesis of contemporary self-perception by delving into how the Reformation shaped notions of personal responsibility and criminal law [6]. Garland, David's *Punishment and Modern Society: A Study in Social Theory* scrutinizes shifting conceptions of criminal law and punishment in present-day society, including an examination of medieval Christian doctrine's role as well as advancements in institutionalization and human rights [7].

Besides, scholars have analyzed the relationship between medieval criminal law and Christian doctrine. Harding, Alan's *Medieval Law and the Foundations of the State* examines the legal system and concept of criminal law in the Middle Ages, including punishment under Christian doctrine, trial influence, and judicial procedure [8]. And Collins, Paul discusses social and political changes in early medieval Europe as well as how Christian doctrine influenced law and punishment [9]. What's more, Johnson, Thomas L. hypothesizes about how Christianity shaped criminal law systems in Europe during the Middle Ages by probing into Christian theology [10]. Berman, Harold J. covers West's relationship between law and religion while discussing Christianity's influence on legal thought, particularly during this period [11].

Moreover, several studies have explored the development of contemporary European criminal law theory. *Crime and Punishment in Modern Europe*, edited by Evans, Richard J. and Lee, W.R. is a compilation of scholarly works that traces the evolution of criminal law and penal concepts in modern Europe while examining the impact of religious reform and Enlightenment on criminal justice [12]. Gascoigne, John's *The Enlightenment and The Origins of European Australia* analyzes how the Enlightenment influenced European legal systems and criminal law thought, including the clash between religious ideas and rationalism [13]. Bayly, Christopher A. examines social, economic, and political changes in the modern world as well as developments in legal and penal theories from a comparative perspective beyond Europe [14].

Additionally, there are several books that discuss the comparison of legal systems and criminal law thought. For instance, Heikki Pihlajamäki, Markus D. Dubber, and Mark Godfrey offer a historical sociological perspective on the development of modern legal systems in Europe, including a comparative analysis of medieval Christian teachings' influence on criminal law thought [15]. Zimmermann, Reinhard and Pennington, Kenneth provide an introduction to the European legal system as a foundation for transnational comparisons of legal systems and criminal law thought [16]. Devine, Tom examines crime and punishment in Sevilla during the early modern period while discussing the impact of local religious, cultural, and political factors on criminal law thought [17].

Reichel, Philip L. presents a comparative study of the global criminal justice system that explores differences and commonalities in legal and penal perceptions across European countries [18].

However, there are some controversial perspectives opposing the aforementioned idea. David, R., critically examines and questions the impact of medieval Christian teachings on European criminal law thought. He contends that while religion played a significant role in the legal system in the past, its influence on criminal law thinking has relatively diminished with the advancement of modern society. Furthermore, he highlights that contemporary criminal law is predominantly shaped by reason, science, and positivism [19]. Cotterrell, R. presents a comprehensive sociological analysis of law and raises inquiries regarding the impact of medieval Christian teachings on criminal legal thought. She posits that law is a multifaceted social phenomenon influenced by various factors, encompassing politics, economy, and culture. While acknowledging the significance of religion, she cautions against overemphasizing its role and highlights the potential greater influence of other societal factors on criminal legal thinking [20]. Berman, H. J.'s *Law and Revolution: The Formation of the Western Legal Tradition* delves into the genesis of the Western legal tradition, encompassing transformations during the medieval era. He posits that while Christian doctrine does exert some influence on legal concepts, it is not solely determinative. He underscores the significance of political and social dynamics in shaping legal development and critiques an excessive emphasis on religious factors [21].

In conclusion, although the existing body of knowledge provides a robust foundation for comprehending the influence of medieval Christian doctrine on contemporary European criminal law, there exist research gaps, inconsistencies in theory and findings, as well as areas that warrant future investigation. Exploring regional variations, alternative dispute resolution mechanisms, reconciling divergent perspectives, fostering interdisciplinary approaches, and examining the impact on present-day legal systems are crucial avenues for further exploration.

3. Methods

The research aims to address the question: "What was the impact of medieval Christian teachings on contemporary European criminal law thought?" To tackle this issue, the qualitative data was collected. The primary sources for data were predominantly secondary literature, including academic works and historical documents. This approach was chosen as it allowed for an in-depth exploration of original documents and scholarly interpretations pertaining to medieval Christian doctrine, as well as relevant materials concerning modern European criminal law. By employing this method, a comprehensive analysis could be conducted to uncover the influence exerted by medieval Christian doctrine on contemporary European criminal law thought. In order to ensure data validity, rigorous screening, evaluation, and analysis were applied to reliable academic works and historical documents while also considering source reliability during selection process. Furthermore, appropriate discussions and explanations were provided within the results section to enhance study credibility.

In the research, my focus was on analyzing the impact of medieval Christian teachings on contemporary European criminal law thought through the careful selection of case study materials, like texts. I conducted a comprehensive analysis of various types of material, encompassing historical documents, legal records, doctrinal writings, artistic works, and religious texts. To gather this material, extensive literature research was undertaken using targeted keyword searches and screening criteria to identify pertinent academic resources. During the process of material selection, particular attention was given to their reliability, authority, quality of information as well as their relevance to the research question at hand. The collected and chosen materials were meticulously evaluated and analyzed in order to ensure they effectively supported the research objectives while providing credible data and valuable insights.

In this study, I employed text reading and comparative methods to comprehensively examine the influence of medieval Christian teachings on contemporary European criminal law thought and establish significant correlations between them. After thoroughly analyzing the selected literature and assimilating the findings of previous researchers, I formulated three hypotheses: the transition from customary law to statute law, the impact of original sin tradition, and the establishment of theoretical principles in criminal law. By employing these systematic content analysis methods, my research yielded robustly supported findings that were deeply understood.

In contrast, statistical analysis was better suited for processing quantitative data, while field investigation necessitated direct communication and on-site observation, which rendered it unsuitable for research based solely on historical documents and materials. Although I acknowledge that the text reading and comparative approach may have limitations or weaknesses, its systematic ability provided robust support for the research objectives, thereby contributing to novel insights and comprehension.

4. Analyze

Medieval Christianity played a pivotal role in shaping the development of modern European criminal law, exerting not only a profound moral and spiritual influence on society but also directly impacting the philosophical underpinnings and guiding principles of this legal domain. This objective of the paper aims to explore the tangible impact of medieval Christianity on contemporary European criminal law discourse.

4.1. Evolution from Customary Law to Statute Law

In the Middle Ages, Christian teachings had a profound influence on the development of the whole social culture. The European legal system experienced a notable impact of Christian doctrine, as it facilitated the transition from customary law to written law. Customary law refers to legal rules established based on social conventions and traditions, while codification involves the formulation of clear legal provisions through the legislative process.

On one hand, Christian teachings emphasize moral ethics and advocate the Bible as a guiding principle. Consequently, the Church played a crucial role in upholding justice and governing social order. Robinson, Thomas M. says that *“The democracy will be one where aidos (“respect”) will be a prominent feature, as will be the rule of laws underpinned by the belief that God, not man, is the measure of all things.”* [22]. Church leaders interpreted and referenced biblical texts to address societal issues, believing that laws should align with God's will rather than solely relying on customs and traditions. Thus, by interpreting and quoting from the Bible, the Church indirectly contributed to standardizing and formalizing legal practices.

On the other hand, Christian doctrine also influenced the internal legal system of the Church itself. Courts and judicial bodies were established within the Church to handle internal affairs and safeguard believers' rights and interests. These courts were obligated to adjudicate cases in accordance with Biblical principles and provisions using written laws instead of relying solely on individual judges' subjective judgments. In this manner, Christian teachings exerted a profound influence on European society and indirectly contributed to the evolution of the legal system.

For instance, the common law system in medieval England was shaped by Christian teachings. In England, common law is derived from precedent and developed by judges within their respective jurisdictions. However, during the Middle Ages, the impact of Christian doctrine gradually steered English law towards codified statutory regulations. The Magna Carta in the 13th century exemplifies this shift as it encompassed a series of legal provisions that marked the initiation of English adoption the compilation style from civil law's statute-based ideas.

Henceforth, it can be asserted that Christian doctrine played an instrumental role in fostering ideological transformation within modern European criminal law. Through biblical references, establishment of ecclesiastical legal institutions, and influence over common law practices; Christian doctrine facilitated the development of European legal systems towards written laws while promoting standardization and formalization processes.

4.2. The Continuation of Original Sin Theory

The medieval Christian doctrine engaged in a profound discourse on the essence of sin, exerting a significant impact on contemporary European criminal law ideology. Christian teachings assert that humans possess free will and define sin as transgressions against God's commands and moral principles. This notion profoundly influenced the development of European criminal law.

According to biblical teachings, humanity is inherently burdened with original sin and, thus, predisposed towards evil actions. However, humans also possess free will, granting them the choice to either uphold or violate the covenant between themselves and God by embracing good over evil. In Christian doctrine, sin fundamentally arises from a breach of this covenant facilitated by the exercise of free will. The concept of "social contract theory," which forms the logical foundation for classical criminology, does not solely originate from Enlightenment thinkers but rather finds its roots in Old Testament lore (where Moses entered into a covenant with Jehovah on behalf of mankind) and New Testament narratives (depicting Jesus' pact with God as an alternative to human sacrifice).

Do not have other gods besides me.

Do not make an idol for yourself, whether in the shape of anything in the heavens above or on the earth below or in the waters under the earth. Do not bow in worship to them, and do not serve them; for I, the Lord your God, am a jealous God, bringing the consequences of the fathers' iniquity on the children to the third and fourth generations of those who hate me, but showing faithful love to a thousand generations of those who love me and keep my commands.

Do not misuse the name of the Lord your God, because the Lord will not leave anyone unpunished who misuses his name.

Remember the Sabbath day, to keep it holy: You are to labor six days and do all your work, but the seventh day is a Sabbath to the Lord your God. You must not do any work—you, your son or daughter, your male or female servant, your livestock, or the resident alien who is within your city gates. For the Lord made the heavens and the earth, the sea, and everything in them in six days; then he rested on the seventh day. Therefore the Lord blessed the Sabbath day and declared it holy.

Honor your father and your mother so that you may have a long life in the land that the Lord your God is giving you.

Do not murder.

Do not commit adultery.

Do not steal.

Do not give false testimony against your neighbor.

Do not covet your neighbor's house. Do not covet your neighbor's wife, his male or female servant, his ox or donkey, or anything that belongs to your neighbor. (Exodus 20:3-20:17) [23]

Blessed are the poor in spirit, for the kingdom of heaven is theirs.

Blessed are those who mourn, for they will be comforted.

Blessed are the humble, for they will inherit the earth.

Blessed are those who hunger and thirst for righteousness, for they will be filled.

Blessed are the merciful, for they will be shown mercy.

Blessed are the pure in heart, for they will see God.

Blessed are the peacemakers, for they will be called sons of God.

Blessed are those who are persecuted because of righteousness, for the kingdom of heaven is theirs. (Matthew 5:3-5:10) [24]

In religious literature, the "Ten Commandments of Moses" and the "Sermon on the Mount" represent a covenant between man and God, wherein they willingly relinquish their rights to God in exchange for His care and protection. Those who violate this contract will face divine punishment, which is unquestionably certain. The scriptural admonition, "*Vengeance belongs to me; I will repay*", prohibits personal retribution among individuals and assigns the power of punishment solely to God [25]. Consequently, through this arrangement, God naturally upholds the voluntary surrender of individual liberties while collectively constituting the right to administer justice. It becomes evident that the theory of social contract formulated by criminal thinkers during the Renaissance and Enlightenment eras bears resemblance to biblical narratives mentioned above, as both share similar theoretical implications; however, it is noteworthy that latter transitions from "the covenant between man and God" towards "the covenant among all individuals."

Objectively speaking, in the absence of Christian thought as a guiding force and without the enlightenment derived from religious culture reaching its pinnacle, the classical school of criminal jurisprudence may still need to embark on an extended exploration towards grasping the concept of contract and subsequently formulating their own perspective on criminality.

4.3. The Establishment of Theoretical Principles of Criminal Law

Medieval Christian doctrine has actively contributed to the development of modern criminal law theory, providing explicit guidance for the establishment of crucial principles such as legality, proportionality, humanism, and equal application.

Firstly, Christian doctrine emphasizes the significance of the principle of legality by advocating for clear definitions of criminal acts and their corresponding punishments. For example, the New Testament clearly states that "*For all who sin without the law will also perish without the law, and all who sin under the law will be judged by the law.*" [26]. This aligns perfectly with the contemporary criminal law principle of "punishment for the crime." Similarly, the Old Testament Book of Exodus records the following injunction, "*If there is an injury, then you must give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, bruise for bruise, wound for wound.*" [27]. The bloody homophobic concept of revenge demonstrates the principle of "balance between crime and punishment." It embodies the simple and just emotion of human pursuit and exchange of other harms. The Gospels of the New Testament also expounded the necessity of the existence of the law, arguing that even if heaven and earth fall apart, the effect of the law should remain unchanged, and the law must prevail when people speak and act, and the law should first be formulated according to the principle of "*Do not judge, so that you won't be judged.*" [28].

Secondly, the concept of "humanism", widely revered in contemporary criminal law discourse, finds resonance within the Bible's narrative cluster. Each religious story encapsulates a profound value system centered around forgiveness and tolerance. By scrutinizing the words and actions of devout believers under ecclesiastical guidance, the spirit of love and the notion of forgiveness are disseminated to humanity. For instance, God himself embodies forgiveness and tolerance as he repeatedly pardons mankind's transgressions in his quest to alleviate worldly suffering, entering into multiple covenants that exemplify his magnanimous disposition towards humanity's "original sin". It is worth noting that these values find greater expression in the New Testament compared to the Old Testament. In Chapters 5 to 7 of Matthew's Gospel, Jesus' "Sermon on the Mount" vividly illustrates this transition towards tolerance and forgiveness; it marks a doctrinal shift wherein Christians are called upon to exhibit chastity, rigor, and an unwavering capacity for forgiving others through the

"Eight Beatitudes" [29]. In terms of trial and penalty initiation procedures, it is believed that in addition to the Father, human beings are not qualified to have trial and punishment, because the biggest shortcoming of human original sin is "only thorns, not beams", and then put forward the penalty concept of "good to rule evil" and "forgiveness" - including the tolerance concept of "being hit on the left face, the right face is also extended", "love neighbor," *Love the enemy* " and *"forgive others, and you will be forgiven by the Father at the last judgment "*. [30,31].

Furthermore, with regard to "equality of application", the biblical literature draws out the proposition of "equality before punishment" from the religious thought of "everyone has original sin". In his religious novel *The Kingdom of God*, Augustine described that because people stole the forbidden fruit, they obtained original sin, and they obtained the obligation of "repentance" and "atonement" equal to everyone in front of God, in order to exchange for happiness in the afterlife. This can be said to be the initial description of the "everyone is equal" view of punishment. Both the Old and New Testaments admit that by nature all men are God's creatures, God's children, and therefore equal before God, *"For we were all baptized by[a] one Spirit into one body—whether Jews or Greeks, whether slaves or free—and we were all given one Spirit to drink."* [32]. As "sons of God, lost lambs," the idea that all humans are created equal is deeply rooted. At the same time, in the Sermon on the Mount, emphasizes two principles that should be upheld in the application of punishment. The first is to have a holistic and systematic concept, *"Don't think that I came to abolish the Law or the Prophets. I did not come to abolish but to fulfill. For truly I tell you, until heaven and earth pass away, not the smallest letter or one stroke of a letter will pass away from the law until all things are accomplished. Therefore, whoever breaks one of the least of these commands and teaches others to do the same will be called least in the kingdom of heaven. But whoever does and teaches these commands will be called great in the kingdom of heaven."* [33]. The second is the principle of equality in the application of law, which admonishes law makers and law enforcers to apply the law in a way that does not discriminate between themselves and others, and that the wrongdoer is as guilty as the perpetrator. *"You are the light of the world. A city situated on a hill cannot be hidden. No one lights a lamp and puts it under a basket, but rather on a lampstand, and it gives light for all who are in the house. In the same way, let your light shine before others, so that they may see your good works and give glory to your Father in heaven."* [34].

Therefore, Thomas Jefferson asserted in the United States Declaration of Independence that the truth of "all men are equal" is inherently evident, drawing inspiration from the universal influence of biblical culture on Europe's humanistic values. Furthermore, with regards to criminal theory and judicial systems as previously mentioned, the Bible extensively elucidates concepts such as distinguishing between intentional and negligent crimes, establishing illegality and reasons for mitigating responsibility, safeguarding human rights for suspects and defendants prior to judgment, and transitioning from retributive punishment to rehabilitative measures.

In summary, medieval Christian doctrine provides invaluable guidance for the development of modern criminal law theory by positively influencing the construction and advancement of principles such as legality, proportionality between crime and punishment, humanism, and appropriateness. Consequently, it directs greater attention towards justice, humanity, equality while reflecting Christianity's concern for individual freedom and dignity.

5. Conclusion

In conclusion, medieval Christianity has exerted a significant and profound influence on the development of modern European criminal law thought. By drawing upon Scripture and Christian doctrine, it contributed to the evolution of the legal system, fostering discussions on sin's nature that inspired notions of individualized punishment and correction. Moreover, the medieval Christian civilization provided invaluable guidance for establishing principles in criminal law and shaping

educational perspectives on crime. Additionally, it is evident that the Christian doctrine and spirit continue to exert a lasting influence on the development of criminal law thought in contemporary Europe. In the future, potential areas for further research could include analyzing the impact of Christianity on specific aspects of criminal law, such, victim-offender reconciliation programs, or restorative justice approaches. Additionally, exploring the evolving role of religion and spirituality in shaping crime prevention strategies and addressing ethical considerations within the criminal justice system would be worthwhile.

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