

Summary

The thesis deals with the ways political and expert (especially legal and criminological) discourses formulate and reproduce the meanings, assumptions and definitions constructing the man as a subject of criminal law, a subject responsible for his actions. It focuses on the ways the political domain (in particular, the lower and upper chambers of the Czech Parliament) and the scientific domain (in particular, legal science, criminology and psychiatry) form and formulate the opinions of “criminal law” and the ways these opinions are reflected in meanings embodied in criminal law itself.

Methodologically, the thesis builds on critical discourse analysis. Put in plain language, what makes discourse significant is the oppression it brings upon us by defining what can be said about the world and how one can meaningfully act in it. Thus, it is not (only) a reflection of another, more real reality and it cannot be fully reduced to some other social phenomena. Therefore, by investigating discourse, one can identify the assumptions social actors build on and the argumentative frameworks they apply in discourse.

The theory section formulates premises for the subsequent analysis of specific topics related to the formulation of “criminal” guilt and responsibility. After a short review of sociological approaches to criminal law and punishment that are relevant for its topic, the thesis formulates its own theoretical framework, primarily on the basis of Pierre Bourdieu’s concept of the legal field and Michel Foucault and his successors’ concept of governmentality.

The chapter entitled, “Notions of man in criminal law”, serves as a general introduction to the subsequent specific analyses. It investigates the ways criminal law and discussions about it construct the man as a subject and object of criminal law and define his responsibility for acts he has committed, including the circumstances aggravating or mitigating that responsibility. The following three chapters deal with culpability in particular areas. These areas were chosen as boundary areas of criminal law because they relate to the very definitions and delimitations of who can be made responsible for his actions and thus who can be punished by criminal law.

The first of these chapters is entitled, “Self-induced insanity”, and analyzes historical developments of both the legal regulation and the discursive construction of a situation when a person commits an act otherwise criminal in a state of insanity which he induced in himself by his own actions, whether intentionally or by negligence. In the following chapter, “Irritable mothers”, the author deals with discussions surrounding the act of mothers murdering their newborn children. The last analytical chapter, “The issue of age in criminal law discussions”, studies the discourse of child and juvenile delinquency. In the conclusion, the author both summarizes the three analyses and tries to generalize them with regard to the notion of the man in criminal law and discussions about it. As the analyses demonstrate, few practical changes occurred in criminal law’s “anthropology” during the 20th century. Any such changes were not directly related to changes in the political or legal fields. They rather followed their own logics or resulted from conflicts between different constructions and definitions of the man.