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‘Doing Sanctions with Words’: Legacy, Scope, Fairness and Future (?) of a Reprimand

Abstract: The paper aims at presenting with the short analytical expose of a phenomenon of a reprimand as a matter of the legal process and, more specifically, the specific – linguistic – way of punishing. The main underlying issue raised in the analysis is the question could we still ‘do sanctions with words’ in law and, especially, the penal one after the critique of the inherence of psychological violence, paternalism and even primitivism in this approach to the process of punishing? Skipping the vast historical background, the research proceeds with more theoretical and relevant today analysis of the linguistic-performativity-rich and persisting ‘reprimandish’ nature of law. The juxtaposition of this nature with the contemporary tendencies of the insisted reforms in the fields of the crime control and the system of punishments allow presenting with the perspective/future of a reprimand as the part of a broader linguistic and educational process/project of changing a criminal and whole society. The research concludes with the underlying idea that the transformation of the system of law and, especially, the field of punishments from affecting primarily the body to affecting primarily the mind requires reconsideration and, in such instances as that of a reprimand, rehabilitation of the overall linguistic performativity of law and its socio-holistic educational role.

Keywords: reprimand, legal sanction, punishment, criminal, linguistic performativity

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1 Introduction

In *The Sacrament of Language* Giorgio Agamben writes: “‘political’ curse marks out the *locus* in which, at a later stage, penal law will be established. It is precisely this peculiar genealogy that can somehow make sense of the incredible irrationality that characterizes the history of punishment” (Agamben 2010: 38). From the perspective of Agambenian insights and research it would not be a big historical speculation to state that a reprimand, together with other linguistic performatives as curse (probable predecessor of a reprimand), oath or blasphemy, played an important role in the history of law and, especially, punishment as its solemn tool of power. Linguistic performatives may even stand at the origins of both. They also represent law as fundamentally and originally a matter of language and, we should add, the powerful/violent language.

On the other hand, modern tendencies of the humanization of law made their impact not only to the physical instances of violence in legal proceedings. They have been wiped out not only of any body-impacting cruelties (or physical violence), culminating in the prohibition of the capital punishment; mind-impacting cruelties (or psychological violence) – and reprimand as a legal sanction here stands at the forefront – were affected in the eliminating direction also.

However, two major problems remain today. Firstly, despite the positivistic emphasis on the dependence of law to physical force/violence, law remains the matter of language that

affects and *should affect* our minds and, later, actions *just as language*. Law remains full of linguistic performativity (the focus of the first section of the paper), which is extensively employed/used, even in the field of sanctions/punishments, and which may take various forms, i.e. as negative or positive, weak or strong ones (the focus of the second section of the paper). Secondly and most importantly, the inertia of a body-impact as the essence of punishment is still very strong. It is still usual for the prison to be the place of *simply/only* isolation (i.e. *in corpore*) of a criminal from society where he/she continues and, as some say, even advances in being criminal as a matter of his/her mentality. In addition to that, capital punishment is still popular in society[1], which continues to regard a criminal as an 'off-cast' of the remaining 'good' society the latter being not responsible for what the former has done. Reconsideration of the phenomenon of a reprimand in this light does not only amount to its certain rehabilitation and reinstitution into the orbit the outcomes of legal proceedings. It also allows making broader insights into the process of the overall mentality-transformation (i.e. that of society and that of a criminal), which is or maybe be initiated by law as a matter of language and linguistic performativity (the focus of the third and concluding sections of the paper).

2 Linguistic performativity and law

If you would read J. L. Austin's master-peace lectures "How to Do Things with Words", you would quickly notice the abundance of the references to the field of law. We could even say that this field functions as a perfect generator of the examples of linguistic performativity for Austin and this is because of two reasons. Legal practice (in a very general sense), indeed, is relatively loaded with linguistic performativity. As Austin states, "it is worth pointing out … how many of the 'acts' which concern the jurist are or include the utterance of performatives" (Austin 1975: 19). Furthermore, lawyers are relatively sensitive in relationship to this aspect and, at the same time, to the potentiality of language, and this sense may be 'deeply' internal and implicit. To borrow Austin's example, "in the American law of evidence, a report of what someone else said is admitted as evidence if what he said is an utterance of our performative kind: because this is regarded as a report not so much of something he *said* … but rather as something he *did*, an action of his" (Austin 1975: 13; italics – Austin). Lawyers also have their own term, 'operative', which is nearest to what Austin calls a 'performative sentence' (Austin 1975: 6–7). This shows that law in general is not only, as it is written here and there, fundamentally the matter of language and its mastery (Gibbons 1994: 3–4), but also that it is, more specifically, the matter of performative language. Law is a fundamentally linguistic project where the potential of language 'to do things' in the Austinian sense is rationally reflected, integrated and, what is the most important, employed.

We could further articulate this insight into (1) a more general and (2) a more specific dimension. Generally we may consider the whole domain of law as a regulator of society to be one big linguistic performative – the function of law as language is to make an impact to society. In this respect in a more postmodern context, we may find the term and reference to the 'linguistic violence'[2]. However, we may call it '[linguistic] violence', or we may call it '[linguistic] societal improvement', or we may call it very neutrally – just '[linguistic] impact'. Thus, it depends on our ethical and critical predispositions and, after a long lingering over and already a fatigue from the postmodern negativity, the time may have come to give some more constructive or, at least, more positive (in the sense of mood) – even if a bit utopian – guidelines. That would constitute the general 'tonality' for the further analysis here.

[1] The survey conducted in 2013 showed that 48.3 percent of Lithuanian population are in favor of the reinstatement of the death penalty, 37.2 percent are against that, and 14.5 percent have no opinion (*see* http://www.delfi.lt/news/daily/lithuania/apklausa-kokie-zmones-pritaria-mirties-bausmei.d?id=61667839).

[2] There could be many examples of a more or less explicit reference to the "linguistic violence" given here, especially from various postmodern authors.

From the specific point of view, further in the paper we will focus on one specific example of pure legal linguistic performative where law's being allegedly linguistically violent is mostly evident and explicit – reprimand as a legal sanction. But before that, two things need to be said. First, the relation of law and physical violence is not neglected here. Law is an interplay of both – physical and linguistic one – with various versions/possibilities of their interaction in diachronical/historical[3] and sinchronical[4] perspectives. Secondly, as Austin points out, linguistic performativity is 'not alone'. It always depends on some factors being more or less logocentric. In order for a linguistic performative to be functional and effective, the conditions of the Austin's doctrine of infelicities have to be satisfied (Austin 1975: 14 et seq.). There are specific requirements to (1) the *procedure* of the utterance as a linguistic performative, to (2) the *person* making the utterance, and, what is most important from the logocentric perspective, to (3) the *thoughts, feelings and conduct* of the persons making the utterance and the persons in relation to whom the utterance is directed. However, despite the obvious importance of the third one, the first two are also very much relevant if we look closer to their descriptions. Austin states that "there must exist *accepted conventional* procedure" and that "the particular persons and circumstances in a given case must be *appropriate*" (Austin 1975: 26 et seq.; 34 et seq.; italics – TB). Phraseology of this kind (especially the first one) is akin to that of H. L. A. Hart where he writes about the internal aspect of law and the rule of recognition (*see* Hart 1997: 88–89, 100). In other words, Austin, similarly as Hart, here articulates the margin between mind and reality. Performative utterance 'alone' – only as a matter of reality – would not reach its aim. In the same way, law being only violent/forceful would not reach its aim and even would not be 'a law'. Finally – a reprimand just as a voice of a person making it is not 'a reprimand'. Logocentric environment or, otherwise, mentality makes it into the one. Here we could pose the question: what this mentality was, what it is and what it should be in order for a reprimand to survive as a legitimate sanction in the contemporary world?

3 Legacy and scope of a reprimand in the XXI century

Two forms/modes of a legal reprimand could be separated: strong and weak. Strong reprimand is, in other words, *pure* reprimand. It is *only* calling/naming a person 'an offender of law' as a sanction and that is sufficient. It is a reprimand as one and only sanction which suffices. Also being public is its (as being a *legal* sanction) one of the most important characteristics[5]: the lack of publicity seriously complicates reaching its aim. Such sanctions were relatively common in Soviet legal systems which were, if we may say so, ultra-social. For example, Article 33 of the Soviet Lithuanian Criminal Code was called 'Public Reprimand' and it was defined as follows: it is "court's publicly declared reprimand to the offender of law and, if necessary, notification of the society in media and by other means"[6]. In the Soviet Lithuania this sanction was imposed in relation to such crimes as deliberate beating the other person and avoiding to take care after your parents (Articles 117 and 126)[7].

It is also notable that a reprimand as a negative linguistic-symbolic legal sanction used to have its positive counterpart – a sort of so-called 'positive sanction' (e.g., Baublys, et al. 2012: 287; Vaišvila 2004: 271). I.e. from the legal point of view it was (and still is) important not only what a person made bad, but also what s/he made/achieved good and what s/he deserved for that, this way 'sanction' becoming like a prize. In the Soviet law symbolic-

[3] Here the most important phenomenon is that of a revolution and the problem what there comes first: purely coercive element or linguistic/psychological/propaganda-style conditioning (*see* Wacks 2012: 157–158, referring to Karl Olivecrona's ideas).
[4] Especially having in mind the general question which of them – physical or linguistic violence – is the dominating element in law?
[5] Actually, it remains important also in relation to a weak reprimand.
[6] *Law of the Soviet Social Republic of Lithuania on the Adoption of the Criminal Code of the Soviet Social Republic of Lithuania*, Official Gazette, no. 18-148, 1961-01-01.
[7] *Ibid*.

linguistic ‘positive sanctions’ were very popular,[8] which in itself – as these sanctions were also public events – represented Soviet law as socially oriented. The examples of those were: the so-called ‘red flags that pass from one to another collective/group’ (used in relation to collective positive achievements) or ‘medals’ or ‘desks of honor’ (used in relation to individual positive achievements).

Fig. 1. Desk of Honor in the Soviet Lithuania[9]

But what is important here is the public/social and, also, mentality-related characteristic of a legal system represented by such phenomena. The symbolic prize as a positive sanction presupposes interaction between public/social and individual fields, it represents (or, at least, should represent) some kind of a mentally responsive and, this way, integrated society.

However, same as desks of honor are now completely gone to oblivion from the landscape of Lithuania, pure reprimands as a sort of a legal sanction are also almost completely eradicated from legal codes and laws. The sanctions of the contemporary Lithuanian Criminal Code are: public work, monetary fines, and all those related to the deprivation of freedom (house arrest, arrests, imprisonments, etc.).[10] Even if reprimands still exist, they are usually connected to some kind of a real impact and are not public events. For example, reprimand is still provided in the Lithuanian Labor Code as one of the disciplinary sanctions/penalties for the violation of the work order.[11] But, first of all, it is not public, and it is a part of the accumulative form of punishing – if a person receives the second sanction/penalty, then a real sanction could follow, i.e. the employer could terminate the employment contract without any warning.[12]

Also, we should separate ‘reprimand’ from ‘warning’ as a sanction. They are close but different – ‘warning’ *is* calling a person ‘a bad person’ but *primarily* with a very different goal: not to sanction *in/of itself* but, exactly, to warn that if a violation will be repeated the other form of sanction will follow. This way ‘warning’ contains in itself what may be called a ‘weak reprimand’ and warnings are still often used as sanctions/penalties in Lithuania[13].

Accordingly, a ‘weak reprimand’ is reprimand ‘not alone’, insufficient as a sanction. Law is full of weak reprimands. Any decision of a court which convicts, which finds a person liable is a weak reprimand as it contains calling a person ‘a bad person’, an offender of law. We may call it ‘reprimandishness’ of law. This character of law has its own separate life – its history, its intensity and its teleology; and today there are two conflicting tendencies related to

[8] But, of course, not only symbolic positive sanctions were popular; also the physical/real ones were rather usual, as, for example, tax/fees exemptions for the II World War veterans.
[9] Source: http://www.anykstenai.lt/foto/?p=11.
[10] *Law of the Republic of Lithuania on the Adoption and Coming into Force of the Criminal Code*, Official Gazette, no. 89-2741, 2000.
[11] *Law of the Republic of Lithuania on the Adoption, Coming into Force and Implementation of the Labor Code*, Official Gazette, no. 64-2569, 2002, Art. 237.
[12] *Ibid*., Art. 136. Also reprimands in Lithuania still exist in relation to the ethical violations of lawyers.
[13] Especially in the Lithuanian Code of Administrative Violations (see *Decision of the Supreme Council of the Republic of Lithuania on Coming into Force of the Code of Administrative Violations*, Official Gazette, no. 1-2, 1985, Art. 23 and other articles).

that. (1) Generally, it looks like that the intensity of the reprimandishness of law deteriorates through making the court process more private and closed, and through turning the control of crimes into industry (generally *see* Christie 1999) which, as *industry*, should not be interested in the serious decline of crimes through a serious 'change of mind' of criminals and the society in relation to them. (2) On the other hand, tendencies to understand the necessity of the re-socialization of a criminal and attempts to implement that have common accords with the general teleology of the reprimandishness of law – they both have a social focus, they both strive to affect criminal by the use of her/is nexus with society. Further we will focus on the conflict in those two developments and on the potentials of the second one.

4 Could a reprimand be a fair form sanction?

The intensity of the reprimandishness of law deteriorates because reprimand as such is regarded to be an outdated sanction/punishment, representing the paternalistic attitudes in law, the times of the 'poles of shame' as a form of psychological torture of a person and a symbolic form of revenge. But are these generalizations correct in a holistic diachronic perspective? The point is that any symbolic sanction should be related to the social mentality of one or another period and, of course, premodernity or early modernity is different. Following the Durkheimian diachronic logics, after humanity started to recognize crime as 'a crime' and, this way, stepped into the mode of being *more or less* healthy, it firstly conceived the aim of a sanction to be a vengeance/revenge (Wacks 2012: 168–169). Otherwise it is called 'qualitative approach' – sanction/punishment was meant to impress, to be cruel, to make a vengeance and, this way, to expose *as a matter of mentality* our need for that.[14] Later this approach gradually changed to the quantitative one: the crime had to be strictly measured by a sanction and the latter had to have a measurable and theoretical and, if we may say so, socially 'empty' form. Impression, cruelty, socially important and, thus, publicity requiring vengeance was no more necessary and acceptable – just imprisonment, deprivation of freedom for the time period measured in relation to the intensity of a crime. This way punishments became weaker (Wacks 2012: 169) and we allegedly became more human.

But what also happened with this development was the loss of the public/social dimension in the domain of sanctions. Not only humanity developed from collectivism to individualism, not only crimes were "reduced more and more to offences against persons" (Wacks 2012: 168–169), but also sanctions/punishments[15] became more and more personal and private, starting from the very moment of their setting in courts. The best example is the tendency to hide the persons involved in the court process, especially by replacing their names with the initial letters in the cases that are solved (i.e. the guilt is proven/disproven) and then declared publicly. This process represents the complete inversion of the reprimandishness of law – nobody should know the persons involved in the case, including the offender of law. But why the society should not know that someone committed a crime? Is it more socially integrating or disintegrating?

Once again, all this is very much related to the social mentality which has been changing (although with a lot of inertia) to a more humanistic one and also, we should add, to some other changes in our environment. Exactly in this context, the above mentioned anti-reprimandish developments in law are, in some sense, unfair. First of all, they are unfair in the times of ultra-publicity and Wiki-leaks, and of the importance of the image of a person[16]. We may ask a question: what would be a more severe/proportionate sanction today for a person who has stolen a million of euros – a few years of imprisonment but that nobody knows about that (especially after the release); or, exactly, a public reprimand – making the society know

[14] Probably the best exposition of that could be found in Michel Foucault's very beginning of "Discipline and Punish" (*see* Foucault 1998: 9-12).
[15] From the moment of imposing a sanction in a court to its actual implementation.
[16] Just a hundred years ago, if a person would go from one country to another probably nobody would know if s/he had made a crime in the former one.

this fact? Of course, it is unfair in this older or more traditional notion of a punishment as either the means of revenge or, even in a more rationalistic perspective, as the sanction proportionate (also in severity) to the crime made.

However, our aim today is not to punish more severely or just *severely*. Here we could remember Bentham: even though being a positivist he favored paternalistic approaches in law and was especially against the lack of publicity of the court process (Wacks 2012: 62–63). Maybe this way he wanted to show that positive law should remain a moral project and moral dimension should be also represented in the process of law. To 'snap-off' the period of imprisonment and then to isolate a person from the society is a matter of theoretically-positive law. But then a criminal as a part of the society and the society as a whole also should be affected and this is the domain of practically-positive law. In overly-positivistic modernity we have focused too much in this field to a discipline as such, as an outward/material matter (especially in prisons), and thought that this process somehow will teach and re-socialize a criminal. But what is also important is *changing* a person/criminal mentally (or internally in the Hartian terms) and *this way* making her/im to cease making crimes in the future. That is the goal and only through this s/he could be reintegrated. From the very start the process of justice has to affect the mentality of the criminal in a re-socializing direction. Then we should ask this question: when a person would be more likely to commit a crime once again – when nobody knows about her/is former bad deeds and his collar remains publicly white or, otherwise, if people/society know about that and when s/he has a task to improve her/is image?

On the other hand, society has to treat crimes as a *sad* problem and that is another very important mentality-tied aspect related to the fairness of a reprimandish law – only in the context of such a social mentality it could become fair. I.e. people have to think that it is not bad but sad that people make crimes, that they have to be incarcerated, and so on. Only this way it would become a common problem.[17] In this context some kind of a reciprocal educational process could be discerned – a criminal and the society should, in some sense, educate each other by the criminal reflecting our – the society's – problem and the society trying to cure it. If the society has this attitude then it could work. In some sense it could be conceived as a return to a qualitative approach, only a very different one – when crime is recognized not exactly as 'a crime', as something bad and a personal problem, but as 'a social illness' and a common problem. Then a reprimand as a public statement/information that a concrete person has violated law becomes a truly fair sanction.

In other words, there is an essential difference of a sad judge making a reprimand from an angry one making the same. The latter is psychologically violent through the segregation of criminals and social responsibility. Neither the angry judge, nor him/her supporting society accept the responsibility for the crime – only the criminal is considered guilty. The fairness and truthfulness of such approach is, at the very least, debatable. Conversely, the former is not so much violent, as caring – about both the criminal and the society. And if the sadness in such instances becomes the condition of the whole society, then a reprimand could only evoke the responses of societal care and patronage this way loosing any violent and unfair characteristics.

5 In lieu of conclusions: the future of a 'reprimandish' law

In some sense it is strange – and once again we could remember Bentham – that exactly it was *not* positivism which was against the reprimandish law in the XIX-XX centuries; only because it should naturally favor quantitative (i.e. theoretical, scientific, calculative) approach. But it was more postmodern, realistic trends that criticized it from the negative perspective. Returning back to what was stated at the very beginning of this analysis, this narrative

[17] Crime conceived as a sad problem makes any human sad that a crime has happened and this way feeling responsible for this. Crime conceived as a bad problem makes us seeking for revenge and punishment of those allegedly 'naturally' evil that cannot be changed.

represented the system of justice more in a negative light – as a system of repression and violence, from physical to linguistic,[18] from just disciplinary to an industrially developed one[19]. In this context the symbol of the reprimand could be loudly and angrily yelling official/judge – that is how s/he reprimands – and the person on the other side is frightened in fear and shivering.

However, the other narrative presented the system of justice more in a positive light. This other narrative could find its traces in liberal ideologies[20] and, of course, legal positivism. Nevertheless, this ideological trend is controversial; it is lost between social orientation and individualism, between liberalism and democracy, which, according to Schmitt, are completely incompatible[21]. Also, the problem is that law there is understood as a matter of mind, of the Hartian internality; but, on the other hand, social dimension – as what is outside of the mind – is not completely neglected, especially by the emphasis on the 'social practices' as having fundamental/founding/original importance to law (especially *see* Wacks 2012: 83–85). That is the complicacy that concerns us here – how to make a nexus between this internal dimension and the external one, how to connect the individual internality and oneness with the externality and massiveness of the multitude and, this way, to make/create *people* (as a matter of common mentality) which from the very beginning was fundamentally *legal* concept? In such a complicated domain of law, a reprimand as a symbolic/linguistic sanction may exactly be the place where this nexus could be, in some sense, made explicit/real and, this way, proven. In other words, reprimand could function only if a person to whom it is addressed contains the authority of law internalized[22] and, if we may say so, aligns/changes her/is behavior to the precept of law presupposed by the reprimand. In relation to that, two tendencies are possible/necessary.

First of all, public notification about the crime and the criminal should function *only* as an information that a person/criminal is socially ill and that also the whole society is still ill. Furthermore, this information should be a method to mobilize a person and the society for a change. In other words, reprimand as a *public* statement *ipso facto* presupposes that the society is not passive in relationship to what is said. Then the question is – how it reacts: is it a condemning and revenging reaction and this way the reaction which does not accept its own fault in what has happened?[23] Or is it a reaction which presupposes an attempt to understand what has happened in a socio-holistic legal perspective?[24] All this transforms victimology. In other words, in this mentality one-sided victimology looses its sense. A criminal becomes also a victim, 'a poor man' (not 'a bad man') who has to be helped.

Secondly, public notification about the crime and the criminal should be an integral part – and also exposition of its problem – of a bigger educational process related to the improving of a social corpus. To return to John Austin: he calls the performatives which malfunction 'unhappy'; not bad, false or wrong but just 'unhappy' or, we may add, 'sad'. Analogously, the crime is the situation which proves that all the grandiose performative inherent in our

[18] Here we could think about Sanford Levinson, Jacques Derrida with Walter Benjamin, Stanley Fish, Scandinavian Realism, and so on.
[19] Michel Foucault and Nils Christie could be mentioned here.
[20] As those of Friedrich von Hayek or Karl Raimund Popper.
[21] It is debatable but still a strong argument (for the good exposition of critique *see* Mouffe 1998: 159–175).
[22] It directly relates to the internal aspect of law as articulated by Hart. We could only add that it is *really* better if all or most of the society contains it. This is the condition of a strong reprimand to work. Otherwise, a reprimand would turn only into a judge's cry of despair. This internalization is one of the most important general aims of education, which *in any of its forms* has the power of aiming at this, even when the person learns math, language, history, chemistry, etc.
[23] In other words, it is the reaction which confronts 'bad' criminal on the one side and 'good' society from the other side; then, of course, the idea comes that this 'bad' criminal should be isolated from what is left 'good' as the rest of society. This mentality makes a fracture in the society – two societies in one.
[24] It should be mentioned that this kind of socio-holistic legal mentality may already be traditional to the cultures of the Orient this way turning the problem analyzed into an exceptionally Western problem (e.g., *see* Fletcher 1996: 38-40: "neither traditional Japanese nor the language of Talmud had a term for individual 'rights'. Rights separate the individual from the community; they express a capacity to stand apart from the collective path. Yet the basic idea for law in these cultures stresses the commonality and the cooperative nature of legal experience. … The Western view that defensive force is justified in opposition to wrongful aggression reflects the more general view that the function of law is to resolve conflict, to provide an abstract medium that sorts out true claims from false. … In an alternative idea of law, … expressed in Japanese and Jewish premise of a path traveled together, the fate of one's neighbor is critically important; the duty to rescue is assumed, for the neighbor is a partner in a common venture". In other words, in this mentality a criminal would not be separated from the commonality/community and the collective path).

educational system – trying to do things with words and this way to improve (or build-up) our moral caliber in/by families, schools, media, state itself – somehow, in some instance(s), became unhappy/sad, it malfunctioned and did not reach its aim. Then two not-self-excluding strategies of societal healing are possible. First of all, malfunctions in general educational system should be discerned and, if possible, corrected.[25]

Also sanctions themselves and as a whole should function as a re-educational system. In the contemporary Lithuanian manual of Legal Theory it is written that negative legal responsibility (or delict) "raises two main aims: (1) to protect legal order; (2) *to educate* citizens to *respect* law" (Baublys, et al. 2012: 470; italics – TB). The wording of the second aim is interesting in itself. First of all, the aim is not 'to force [to respect]' but 'to educate [to respect]'; and then not 'to fear [law]' but 'to respect [law]'. Fear of negative consequences/sanctions (as a part of law) does not exactly educate; people *just* fear them. This wording should mean that sanctions *as being imposed* should participate in the educational mission. Returning to a reprimand – either reprimand in a corresponding social environment should be sufficient for that and *thus* turn into a strong reprimand. Or, if it is not enough, then it should become weak and be supplemented by other means of a longer re-educational process together with the deprivation of freedom. I.e. the control of a crime should cease to be focused to the industry of *just* incarceration where criminals are isolated from the society and left to do whatever they like under the rules of the regime of a prison; and having a library there is not enough. If they already not are, prisons should turn into schools with a specific educational regime adapted to those socially ill, making an impact not to their bodies but to their minds and, this way, representing the socio-holistic (or socio-integral) legal mentality of the whole society.

References

Agamben, G. 2010. *The Sacrament of Language*. Cambridge: Polity Press.

Austin, J. L. 1975. *How to Do Things with Words*, 2nd ed. Cambridge & Massachusets: Harvard University Press.

Baublys, L., et al. 2012. *Teisės teorijos įvadas [Introduction to Legal Theory]*, 2nd ed. Vilnius: Leidykla MES.

Christie, N. 1999. *Nusikaltimų kontrolė kaip pramonė [Crime Control as Industry]*. Vilnius: Eugrimas.

Fletcher, G. P. 1996. *Basic Concepts of Legal Thought*. Oxford: Oxford University Press.

Foucault, M. 1998. *Disciplinuoti ir bausti: kalėjimo gimimas [Discipline and Punish: The Birth of the Prison]*. Vilnius: Baltos lankos.

Gibbons, J. 1994. Language constructing law. In J. Gibbons (ed.), *Language and the Law*, 3-4. London & New York: Longman.

Hart, H. L. A. 1997. *The Concept of Law*, 2nd ed. Oxford: Clarendon Press, 1997.

Mouffe, C. 1998. Carl Schmitt and the Paradox of Liberal Democracy. In D. Dyzenhaus (ed.), *Law as Politics: Carl Scmitt's Critique of Liberalism*, 159-175. Durham & London: Duke University Press.

Vaišvila, A. 2004. *Teisės teorija [Legal Theory]*, 2nd ed. Vilnius: Justitia.

Wacks, R. 2012. *Understanding Jurisprudence: An Introduction to Legal Theory*, 3rd ed. Oxford: Oxfrod University Press.

[25] In this context, for example, we could ask: can we 'play' with crimes by romanticizing them? As, for example, it was done in such Hollywood movies as "Ocean's Eleven" or "Ocean's Twelve"? In some sense, such media phenomena could be conceived as a kind of a propaganda favorable to the industry of crime control which has *no* aim to educate citizens to respect law and this way to reduce the supply of criminals. But criminal is not a romantic personage. S/he is socially ill. This way this media production praises the social illnesses. On the other hand, of course, all this is related to the freedom of speech making it a complicated issue.
Or here we could mention the Norwegian system of the protection of children implemented through the independent organization *Barnevern*. As many Lithuanians immigrated to Norway and there are instances that their children are taken from their families by this organization, this theme attracts a lot of attention in the Lithuanian media and there are a lot of various opinions. One of them could be this one: this system is meant to positively impact the criminal situation in Norway as it represents a radical care about what happens in families, whether the environment therein has no traces of violence which could turn into the roots of later violence after children grow up.