

This thesis deals with relationship of law and morals from the perspective of a judge applying the law. It starts by defining morals as a normative system which determines what is good and what is bad. Bad morals are punished by social sanction. The relationship of content of morals and law can be described as an intersection. There are three possible relationships of the area of law and morals regarding their respective application: (i) area which should be regulated only by moral rules; (ii) area which should be regulated only by law; and (iii) common area for both normative systems.

Morals can penetrate reasoning of a judge applying the law at least in three ways:

Firstly, Legislator can order the judge to drag a moral norm into his consideration. Such an order is called *boni mores* (*dobré mravy*) in Czech legal system (used in Section 3 or Section 39 of Czech Civil Code).

Secondly, the school of phenomenology hermeneutics claims that any interpretation, thus interpretation of law as well, is conditioned by existence of so called pre-structures. We cannot get rid of these structures, they create necessary interpretative frame of interpreting individual. Moral feelings or moral attitudes are parts of these pre-structures. Morals can project to the decision-making of judge knowingly or unknowingly through these structures.

Lastly, a penetration of morals into law in the deliberation of judges takes a form of use of moral arguments in the methodology of interpreting the law. Such arguments can be used if arguments with better formal reasons of existence do not offer sufficiently plausible solutions. It is important to note that every argument used in legal interpretation must be, due to the nature of legal discourse and the demand of judicial review, reasonably justified.