From the judicial reasoning used in a penal judgment, we show how the judge came to a particular morality to justify the sentence and evaluate he had discretion for it. We raise that the constraint does not justify itself as sanction to a cultural practice, though the above mentioned practice commits an outrage against the principle of the damage, if the principle of guilt is not satisfied in addition, this way, we work the hypothesis of which the judges confused the function to apply the law with it of neutralizing cultural oppressive practices. Finally, we analyze if the moral doctrine chosen by the judge is coherent with a public morality centred on the autonomy using for it, both the multicultural liberalism and Joseph Raz’s exclusive positivism.

Keywords
Judicial discretion, Morality Publishes, Criminal sentence, Multiculturalidad, Joseph Raz.