

Dorota Lis-Staranowicz, Wojciech Guzewicz (2019)

## Freedoms and Rights Versus Public Morals: Notes on Constitutional Practice in Poland

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Empfohlen von Dr. Gero Lietz

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This article does not seek a universal answer to the question of what morality or public morals are; rather it focuses on the issue of morality as grounds for limiting constitutional rights and freedoms. We narrow the problem to constitutional practice, and in particular to the judgments of the Polish Constitutional Tribunal, which settles disputes centered around the freedom of humans and public morals. Public morals as grounds for limiting personal rights or liberties rarely appear on the Constitutional Tribunal's docket. The Constitutional Tribunal does not conduct philosophical, moralistic or ethical discussions in search of the meaning of public morals. Judges tend to apply the concept in an intuitive manner. We argue that they limit it to a folk understanding, which may be explained as follows: do good and avoid evil. Judges assign meaning to the public morals clause by referring to their own experiences or seek insight into morality in public opinion polls, which may not be a reliable source of knowledge about what is good and what is evil (the primacy of the "will of the majority"). Two difficult cases await the judgment of the Constitutional Tribunal. Each of them concerns major ethical and moral dilemmas. The first one relates to eugenic abortion, which is legal in Poland under certain conditions, while the second one involves the relationships of homosexual couples, which are not currently subject to legalization. The Constitutional Tribunal is not ready to solve these cases, making uses of public morality as grounds for limiting constitutional rights and freedoms.

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