

In England until the end of the 1960s, homosexual relationships between men were regarded as a crime. A victim of these regulations became, *inter alia*, the well-known mathematician Alan Turing. In 1957 the Wolfenden Report was published, in which the decriminalization of homosexuality was proposed. Lord Patrick Devlin, among others, stood up against the report claiming that the state ought to enforce, by means of law, the morality shared by the majority of society, and hence, should be allowed to penalize some behaviours just because it recognises them as being immoral. This attitude is called “legal moralism”. Justifying his belief, Devlin referred to the so called “disintegration of society thesis”, which asserts that a society will collapse once the value system that unites it has been undermined. In his opinion, a lack of state reaction to immoral behaviour can lead precisely to this. Opposed to Devlin was, *inter alia*, Herbert Hart, whose counter-arguments were so effective that the propositions of the Wolfenden committee were not just implemented – they were supported ultimately by Lord Devlin himself.

In a contemporary, liberal state of laws, the state is obliged to provide arguments justifying each use of violence against a citizen’s civil liberties. However, in almost every legal system, including the Polish one, we are able to find regulations that enforce morality. We agree with punishing incest, procuring, bigamy, indecent exposure and panhandling, despite the fact that among the participants there are conscious, adult people who suffer no harm or injury. We are faced therefore with an essential research problem: what arguments justify legal moralism and allow for punishing crimes against morality and decency?

Surprisingly, at the beginning of the 21<sup>st</sup> century, it is the psychology of morality that seems to succour legal moralism. Based on broad empirical research, the well-known psychologist Jonathan Haidt formulated a theory of moral grounds, which claims that the morality of any entity or society is based on a few basic moral fundamentals. They were formed with evolution, initially protecting from a danger or facilitating cooperation between groups, they are currently activated by many varied factors. Each of them is represented by various moral emotions. For instance, the foundation of purity brings about an emotion of abomination, which was previously to protect our ancestors from poisonous food and risky sexual behaviours. However, nowadays it is also activated by factors that aren't dangerous to us. But should moral emotions and the reasons behind them influence the decisions of a legislator? Haidt gives an affirmative answer and calls his standpoint Durkheimian utilitarianism. According to him, it is most profitable from the point of view of a society to maintain strong social bonds that tie a community and enhance the cooperation of various political groups. The state and the law should, thus, take account of all of the moral fundamentals of each society, not only liberally understood liberty, but also the values connected with purity, loyalty and authority. The Durkheimian utilitarianism of Haidt succours therefore the Devlinian justification of legal moralism.

Our essential research question is hence as follows: Is the concept of Durkheimian utilitarianism able to justify enforcing morality by law? Our research will be limited to criminal law, specifically to the criminalization of crimes against decency. The phenomenon of legal moralism is not clearly and uniformly defined in literature, which is why we will begin with conducting an analysis of this concept in order to know what we are dealing with (1<sup>st</sup> stage). Then, on account of the rather rudimentary description given by Haidt of the concept of Durkheimian utilitarianism, we will search for the strongest interpretation of this theory, referring to post-Durkheimian sociology (2<sup>nd</sup> stage). We have also found it necessary to assess to what extent the results of modern empirical research in the field of psychology, the sociology of morality and sociobiology support the theory of Haidt (3<sup>rd</sup> stage). The last stage of our project will be devoted to searching in Haidt's ideas for arguments for the justification of legal moralism and to their assessment (4<sup>th</sup> stage).