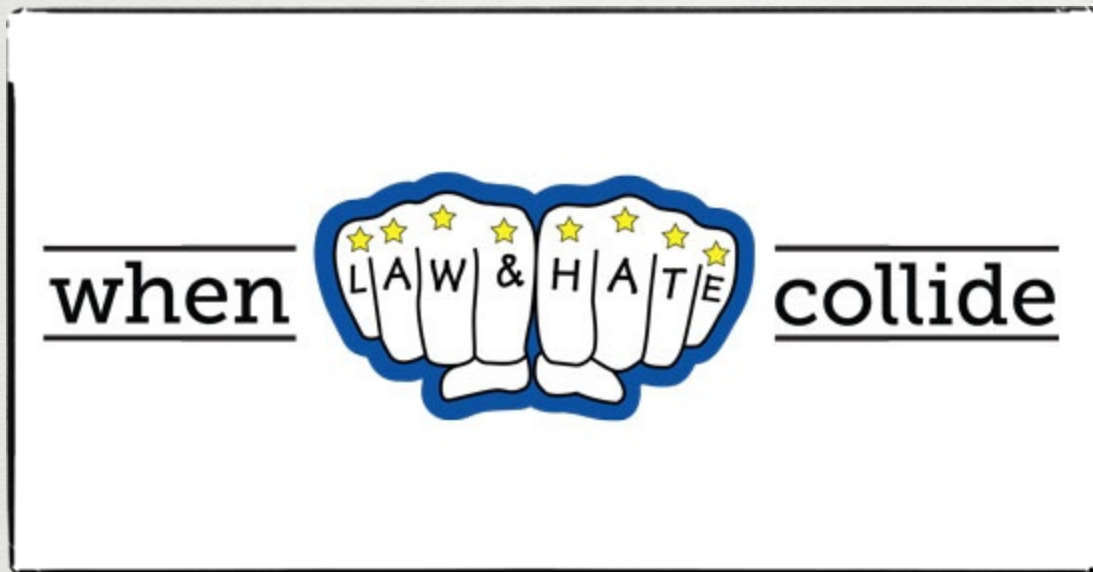


The Hate Crime Concept(s)

Moral, Legal and Political Considerations



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Hate Crime - the Philosophers Perspective

- Why are philosophical considerations relevant?
- **Legitimacy and practice**
 - *Failure to work out the justification of hate crime laws will lead to failures of implementation*
 - *Judges are reluctant to apply this law. Police officers unclear about definitions. Monitoring is flawed (Sweden)*
 - **Needed:** *A clear view of the hate crime concept and its moral foundations*

Hate Crime Concepts - Functions

- **Basic concept:** Hate Crime - crime committed with a hate/bias *motive*
- **Functions**
 - **Criminal law** - punishment enhancement
 - **Monitoring** - enabling reliable, comparable statistics
 - **Prevention** - policy measures
- Different concept for each function? Awkward and possibly counter productive - but inevitable?
- A unified **hate crime policy** should cover all of these functions



Moral Considerations

1. **Harm** - Hate Crimes *hurt more* than other crimes (victim, group, society)
2. **Intention** - Hate Crimes performed with intention to threaten/harm a certain group
3. **Motive** - Hate/Bias is in itself *worse* than other motives (bad values)
4. **Character** - Hate Crimes reveal a *bad character*
5. **Content/expression** - Hate Crimes *express* wrongful negative evaluation of a group
6. **Reasons** - Hate Crimes involves *acting for a bad reason*

Legal Considerations

- **The question:** *even if* Hate Crimes are worse than other crimes, is punishment enhancement justified?
- **Legitimacy -The limits of criminal law**
- **Certain restrictions may apply:** responsibility - culpability
- The Law does/shoudk not judge attitudes/thoughts/values?
 - Motives are sometimes used as *mitigating* factors
- Are the aggravating features of Hate Crimes covered by ***other laws?***
 - Hate Crime as *discrimination* - minority rights violation
 - Hate Crime as *terrorism* - specific intentions
 - Hate Crime as *defamation* (etc) - hate speech/incitement

Functions of Hate Crime laws

- What do we want from a Hate Crime law/statute and enhanced punishment?
 - **Retribution** - for (greater) wrongdoing
 - **Reparation** - for (greater/specific) harm
 - **Prevention** (detention/deterrence)
 - **Rehabilitation** - of the hate offender
 - **Support** for victims and targeted groups
 - **Expression** of societal values (toleration, equality etc)

Political Considerations

- **Is the specific problem** with Hate Crimes something the law shouldn't address, but policies might?
- **A special problem for communities/societies**, not for individual victims or even specific groups?
- **Monitoring** - tracking and addressing *causes* of crime
- **Making Hate Crime a Priority**, rather than the subject of specific punishment?
 - May be more effective - not subject to the same restrictions. Too dependent on political fluctuations?
- **Target prejudice at earlier stages?** Part of a problem with a wider scope
- **The Hate Crime Concept** used here probably *should* include motive - as an essential, explanatory part

4 Hate Crime Concepts

1. Crime *motivated/caused* by hate/
prejudice/bias
2. *Specific Intent* Crimes
3. Crime identified by *specific harm*
(Primary, secondary, tertiary -
distress, fear, societal unrest)
4. *Crime with Hate Expression/
Content* - "hate speech" added
to the "base crime"



A concept with variables

1. **Type of crime**

2. **Type of attitude**

3. **Victims** - Criteria for inclusion (vulnerability, history, immutability, frequently targeted)

4. **Relations** between 1 and 2!

- **Hate Crime** - A *crime* (1) committed *with* (4) a certain *attitude* (2) towards a certain *group* (3)
- How much variation can we allow between the EU countries, yet gain from comparisons and common policies? (Some variability may be *essential* for comparability!)

Hate Crime:

A conceptual framework

- **A conceptual framework** - a concept which variables determined by context
- **A framework** encompassing the morally relevant factors: crime that involves *Specific Intent* or *Acting for a bad reason* - as evidenced by content (*proof of motive*) likely to cause *additional distress*
- **Is motive targeted or directly relevant?** Need not be - reasons to avoid it in a legal concept
- **But:** a concept useful for policy making and monitoring - a "statistics enabling" concept - here motive seem to be directly relevant
- **Ideally we would have a single concept** - so that police and court data can be gainfully used in monitoring and evaluating policies
- **A dilemma!** The various functions may favour different concepts
- **A conceptual framework** is a useful way to start

Thank you!