

About twenty states have enacted hate crime statutes. These statutes increase the penalty for a criminal offense, such as vandalism or battery, if the perpetrator selects the person against whom the crime is committed because of that person's race, religion, color, disability, sexual orientation, national origin, or ancestry. These statutes have become a source of recent legal controversy. For example in 1991 the Supreme Court of Wisconsin declared the Wisconsin Hate Crime Statute unconstitutional in a case involving a black teen age male defendant who participated in an attack with a group of other black teen age males on a white passerby. The defendant's punishment had been increased from two to four years because of a finding by the jury that in his case the attack was racially motivated (The prosecutor presented evidence to show that before the attack he shouted words such as "Let's get that white M-F").

Are hate crime statutes morally justifiable? If so, why? If not, why not?

MODERATOR'S ANSWER: Hate crime statutes are morally unjustifiable. A statute that made hateful speech, let alone, hateful attitudes, criminal would violate a person's fundamental rights to freedom of speech and thought. In this connection, many other kinds of words and attitudes besides those expressing racial, religious, or ethnic hatred have the potential to cause grave harms. To say, however, that governments may criminalize any words or attitudes that have the potential to cause grave harm, would mean the end of the fundamental rights of freedom of speech and thought. A statute that violates these fundamental rights, such as a law that criminalizes hateful words or attitudes, cannot be made justifiable simply by attaching it to another criminal statute as a basis for increasing the penalty under that statute in certain circumstances.

Case from the 1995 Intercollegiate Ethics Bowl. Copyright Robert Ladenson, Illinois Institute of Technology, 1995.