

# **Punishment as a manifestation of hate**

## **Introduction**

‘I think that the deterrent argument is simply a rationalization. The motive for punishment is revenge – not deterrence. ...punishment is hate.’ (Neill, 1971, as cited in Solomon, 1990, p. 272)

Neither hate nor punishment has exactly the same meaning in a legal world as they have in our everyday life (Jacobs & Potter, 1998; Brooks, 2012). This paper will deal with both conceptions, as the legal notions.

The main claim of this paper is as follows: A process of punishing somebody is similarly oppressive, stigmatising and marginalising as hate crime. First of all, to explain the role of hate in hate crime, an analysis of some popular understandings of hate crime will be provided. Taking into account the recent history of hate crime and its usual character, this paper will consider it as extension of the existing oppression experienced by minority groups in a society (Perry, 2001), where violent act is either purely based on bias (as a minimum) or a mixed motive (bias and other incentives) (Lawrence, 1999) and is used by an agent as an effective tool of ‘doing difference’ to maintain hegemonic position in the society (Perry, 2001).

this chapter will be followed by a brief overview of some approaches to punishment, where essential features of the phenomenon will be emphasised: Infliction of harm (Gendin, 1976)/involving loss (Brooks, 1991); emphasis on the responsibility which might be interpreted as a capability to respond or as a manifestation of a normal character of an agent (Keating *et al*, 2014); and dependence on the legal rules which are widespread due to existing social relations and a place of a ruling class in it (Marx, 1977, as cited in Kuper & Kuper, 1996).

The following chapter will be the core of this paper in terms of supporting the main claim thoroughly. It will be done in two lines: 1) using Zemiological approach to the basis of punishment (crime), according to which crime has no ontological reality, but is grounded by social judgements (Hillyard & Tombs, 2004). It will be compared with hate crime which is usually based on unreasonable social bias (Iganski, 1999), rather than actually existed differences (Pirsing, 1974 as cited in Bowling, 2006), which could be worthy of a prejudice. 2) Using Marxist approach, according to which certain ideas, law, in particular, is an effective tool to ‘sanction the existing order’ and grant it ‘independence from mere chance and arbitrariness’ (Marx, 1977, as cited in Kuper & Kuper, 1996, p. 507). From this point of view, punishment will be seen as a mean of social control where a dissident is punished, because he/she does not conform to the rules established by a ruling class. Doing so, punishment likens to hate crime, as a tool of doing difference (Perry, 2001) in the hands of a hegemonic group against a minority. This chapter also suggests the brief philosophic analysis of the famous thinkers to illustrate how different and equally reasoned it can be understandings of ‘unacceptable’ behaviour.

As far as punishment is seen as a manifestation of hate, the final chapter discusses restorative justice as a possible alternative. Although social condemnation is also conveyed in this process (Walters, 2014), it is crucially different from punishment because of the character of its accomplishment, which is based on equality and does not necessarily involve infliction of harm (Brooks, 2012) (different understanding of RJ is suggested by Duff (2002) in terms of inclusion of punitive elements in it). Equality of the stakeholders of RJ is a key as to why this process is not oppressive, marginalising or stigmatising and does not manifest hate.

### **What is ‘hate’ in hate crime?**

The sole legal reflection of hate as such is the conception of hate crime, where the understanding of the term is different from its common meaning: 'Hate crime is not really about hate' (Jacobs & Potter, 1998, p. 11). The common understanding of hate still has its place in the phenomenon though, as far as the understanding of 'hate' in hate crime is even wider than its general meaning. If the latter (general meaning of hate) has the essentially same meaning in most countries, there is no consensus about the meaning of the former (hate crime), either among lawmakers or social scientists (Boeckmann & Turpin-Petrosino, 2002). Absence of consensus regarding the wide-spread conception or its particular forms, e.g. racism, is frequently explained by the cultural differences (Bowling, 1998), political interests 'in defining crime in general, and hate crime in particular' (Boeckmann & Turpin-Petrosino, 2002, p. 208) and etc. (Nathan, 2005). Legislatures worldwide experience the problem in drafting hate crimes laws so that to avoid discrimination between victim groups in terms of understanding 'which groups are worthy of legislative protection?' (Schweppe, 2012, p. 173).

The UK statutory law is not an exception. Although 'hate crime as a distinct category of offence does not officially exist in British legislation' (Nathan, 2005), there are three statutes which provide three different approaches to hate crime (Law Commission, 2013). Sections 28-32 of the Crime and Disorder Act 1998 consider assault and harassment motivated by hostility on the basis of race and religion as worthy of higher sentences than it is for the relevant principal offence. Sections 17-23 of the Public Order Act 1986 prohibit certain types of conduct 'intended or likely to stir up hatred on grounds of race, religion and sexual orientation'. Sections 145-146 of Criminal Justice Act 2003 require the court to treat it as an aggravating factor if an offence was committed and the defendant demonstrated, or was motivated by the hostility related to disability, transgender identity, religion or sexual orientation.

Soundness of the parliament's approach is questioned regarding the differences between offences and the included characteristics because of the absence of a well-thought out strategy:

- 1) The need of the separate scheme for stirring up offences is not clear (Bakalis, 2015)
- 2) The protecting characteristics cause reasonable critics because of the absence of a principle reason as to why race and religion should be treated differently (Bakalis, 2015). This differences are thought to be motivated by the existing prejudices in the criminal justice agencies (Iganski, 1999), rather than a rationale capable of explaining why it is a more serious crime to act upon a prejudice based on race rather than e.g. gender. Moreover, a set of arguments is provided as to why gender should be included within the current framework of hate crime legislation in England and Wales (Tumath & Walters, 2014).

Case law provides the possibility of the wider understanding of hate crime though. In the case of *R v Herbert and others* (2008) the reasoning of the Crown Court was assessed as fully justified by the Court of Appeal, where an unprovoked attack because of gothic appearance of the victim was considered to be equated with other hate crimes where people of different races, religions or sexual orientation are attacked just because they are different.

The reasoning given in this judgment provides a good starting point to define hate crime. There always exist an individual who becomes a victim of an offence because he/she is different from the mainstream. Neither the aforementioned statutes, nor a number of scholars consider it essential feature of hate crime that a victim should be belonged to the minority group. Craig (2002, p. 86) defines hate crime as 'an illegal act involving intentional selection of a victim based on a perpetrator's bias or prejudice against the actual or perceived status of the victim'. According to this definition hate crime is not necessarily an extension of the existing oppression experienced by minority groups in society. Barbara Perry believes the opposite (2001). Having

merged the features of the existing definitions she provides the frequently referred understanding (Nathan, 2005; Schweppe, 2012) of the phenomenon:

‘Hate crime involves acts of violence and intimidation, usually directed toward already stigmatised and marginalised groups. It is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterise a given social order. It attempts to recreate simultaneously the threatened (real or imagined) hegemony of the perpetrator’s group and the “appropriate” subordinate identity of the victim’s group. It is a means of marking both the Self and the Other in such a way as to reestablish their “proper” relative positions, as given and reproduced by broader ideologies and patterns of social and political inequality.’ (Perry, 2001, p. 10).

Although legislations of most countries, including the aforementioned statutes of the UK, do not emphasize the victim’s membership of the marginalized group, the history of the development of the conception of hate crime reveals that hate crime was made up to protect the minority groups who had been oppressed by the hegemonic ones (Nathan, 2005). To decide what makes an act hate crime, a motive of an agent has a particular importance as well. According to Lawrence (1999, p. 10) ‘the bias motivation should be a substantial motivation for the perpetrator’s criminal conduct’ (Lawrence, 1999, p. 10), while in practice it is difficult to prove (Law Commission, 2013), whether bias motivation was substantial or not, even an offender might not be consciously aware of the share of ‘hate’ which might be fortuitously demonstrated because of a subconscious bias in a particular case.

The analysis of some legal and academic approaches to hate crime demonstrates the image of the understandings of the phenomenon. Although they differ from each other, there are still exist some features which can be identified as clearly associated with hate crime historically, culturally, legally or academically: Hate crime is either purely based on bias (as a minimum) or consists of mixed motive (bias and other incentives) (Lawrence, 1999); It is usually directed to a member of a marginalized group; It aims to oppress in order to serve the agent's purpose of maintaining hegemonic position in the society and in this sense hate crime reveals itself as a mechanism of 'doing difference' (Perry, 2001).

### **What is punishment?**

'Perhaps nowhere is this odd phenomenon of our denying what is most human about us (that is our personal passions) more apparent than in the various debates and concerns that surround the problems of punishment in criminal justice' (Solomon, 1990, p. 40).

'Few would dispute that it is a duty of Government to secure the safety of its citizens' (Brownlee, 1997). To achieve this purpose conception of punishment was implemented in law at olden times to respond a deviant behaviour and still continues its existence in almost every society (Walker, 1991). Primitive conception built upon the ideology of retributivism and 'infliction of suffering upon wrongdoer' (Gendin, 1976) which was frequently characterised with principle of *lex talionis*, currently involves 'just desert's' rationale (Brooks, 2012). However, with some casuistry it might not be always obvious whether paradigm of punishment is necessarily orientated on retributivism. It might not be accurate to say, that punishment only

serves revenge, but it is ‘in part the satisfaction of the need for vengeance and makes no sense without this component’ (Solomon, 1990, p. 40).

Although punishment also does not have a universally accepted definition, it is possible to identify some features which necessarily characterise the phenomenon. In the contemporary world there are different sets of rules which prohibit particular acts and punishment is used as a response of a violation of this order (Brooks, 2012). So, in order to punish somebody he/she must have committed a prohibited act (Herring, 2014). Besides the *actus reus* existence of the a particular state of mind (*mens rea*) is required at the time of committing a prohibited act (Herring, 2014) (sometimes importance of state of mind goes even further rather than the actual time of an offence (see Child & Reed, 2014; Simester, 2009 for a detailed consideration of this issue)). In this process Defendant’s responsibility is *sine qua non* to punish him/her as far as punishment necessarily involves some kind of censure. If there is nothing to blame for than there is not a place for punishment (Walker, 1991). The fact that defendant was responsible opens the door to argue the existence of essential element of the punishment: That defendant deserved it. It is essential because ‘what justifies punishment is that it is deserved for that wrongdoing’ (Duff, 2002). Punisher censures and intentionally inflicts harm (Gendin, 1976) to achieve vague purpose of justice and doing so expresses punisher’s superiority over the punished, where a punisher has an opportunity to determine a range of accepted behaviour (Marx, 1977, as cited in Kuper & Kuper, 1996), a punished does not conform to the determined order and receives punishment.

The aforementioned important prerequisite for punishment, offender’s responsibility, can be understood in several ways, although two of them are relatively popular: 1) the capacity theory of responsibility which requires capability to respond (Gardner, 2003) appropriately to

relevant reasons whereas agent's belief is under his/her rational control (Duff, 2007); 2) the character theory of responsibility which requires committed act to be compatible with a normal character of an agent and doing so character theory is considered to look 'like punishing people for what they are rather than what they do' (Keating *et al*, 2014 p. 141).

To sum up, the following essential characteristics of the punishment can be underlined for the reasons of juxtaposing hate crime and punishment: infliction of harm (Gendin, 1976)/involving loss (Brooks, 1991); emphasis on the responsibility which might be interpreted as a capability to respond or as a manifestation of a normal character of an agent (Keating *et al*, 2014); and dependence on the legal rules which was considered by Marx to be 'widespread because they sanction existing social relations or promote particular class interest'. (Marx, 1977, as cited in Kuper & Kuper, 1996, p. 507).

### **Comparative analysis of hate crime and punishment**

When Neill called punishment hate (Solomon, 1995), conception of hate crime as such had not been officially made up. We already mentioned, that 'hate crime is no really about hate' (Jacobs & Potter, 1998, p. 11), which is true, because legal rules cannot be based on feelings, it would unreasonably obstruct prosecutors' work. Herein, it should also be mentioned that the history of the development of hate crime is about hate, it is the history of responding to the human differences 'with fear and loathing' (Lorde, A. 1984, p. 115). The first resemblance of hate crime with punishment is their history. Both, a negative human behaviour motivated by hatred and forceful responses to an unacceptable behaviour for a particular group, can be reasonably considered to be as old as humankind itself (Nathan, 2005). A history of penology reveals plenty of examples where punishment was established for acts which manifested nothing

but individuality of an agent which was different from the mainstream. Good example of this might be a death penalty for homosexual relationship in myriad countries, including the UK (Harwood, 2013). But this paper goes further than demonstrating similarities between hate crime and some types of punishment. This part will be devoted to reason the argument, that the ‘rationale’ behind the whole conception of punishment is essentially similar to the bias, prejudice or hostility underpinning hate crime. To achieve the purpose of providing an acute insight, the characteristics of the two concepts which were underlined in the previous chapter will be scrupulously analysed.

The following characteristics are essential for both, hate crime and punishment:

- 1) They involve unstandardised violence (Wolfe & Copeland, 1994), infliction of harm (Gendin, 1976) or loss (Brooks, 2012; Nathan, 2005);
- 2) Harm is inflicted to protect a set of rules which is usually accepted by the mainstream at a time (Perry, 2001; Marx, 1977, as cited in Kuper & Kuper, 1996);
- 3) By infliction of harm, both oppress, stigmatise and marginalise (Perry, 2001; Nathan 2005; Walker, 1980).

Evidences of each of those similarities will be provided in a particular order.

- 1) Unstandardised violence/Infliction of harm

Legal and academic definitions and examples of hate crime (Bowling, 1998) illustrate that hate crime is not a victimless crime and its expressions might range from the refusal for job based on race or other unjustified bias (Nathan, 2005) to homicide (Bowling, 1998). Similarly, if there is punishment, it cannot be aimed to be pleasant to an offender (Hirsch, 1976), even from

utilitarian point of view (Shute, 1992). If a particular measure is consensually used towards an offender, this measure cannot be called punishment. Therefore, both acts are directed to a particular person and from an agent's point of view each of them involves undesirable consequence to an addressee of this act. This attitude might be stipulated by the fact that both of them are usually motivated by fear, loathing (Lorde, A. 1984) and/or passion for vengeance (Solomon, 1990). Inevitability of infliction of harm in terms of punishment might not be as obvious as it is when we talk about hate crime. Sometimes it argued, that punishment should only serve utilitarian purposes (general and individual deterrence) and therefore it refuses emotional attitude in terms of vengeance/retributivism (Walker, 1991; Shute, 1992). If the conception of utilitarianism was universally admitted this essay would not be written. The problem with this radical utilitarianism is that if we deduct vengeance from punishment, we might develop a very flexible and useful instrument, but it will not be punishment anymore, it would be a content under the name which carries the opposite meaning (Solomon, 1990). Aforementioned understandings of responsibility also illustrate, that punishment is orientated to serve 'justice' rather than to solve a problem caused by a particular act. If it was the case proving of responsibility would not be necessary because sane and insane cause the same harm if they commit identical acts, but only sane person is punished (Walker, 1991).

According to Hirsch (1976) punishment is characteristically unpleasant, 'very painful, it qualifies as severe' (p. 89). Severity of either punishment or hate crime might be partially stipulated by a behavior or a quality of an addressee, but it is not a sole determiner. 'What is an unforgivable sin to one may not be so bad to someone else' (Foy, 2008), e.g. one may seek a separation to punish a partner for infidelity, while others may want to use violence (Foy, 2008). What about hate crime: If a black person is discriminated in a particular group of white people

because of his/her race, a white person might be discriminated in another one, where he/she represents a minority. This kind of paradox happens, because ‘people differ about quality, not because quality is different, but because people are different in terms of experience’ (Pirsing, 1974 as cited in Bowling, 2006, p. 1). So it is not actually an act or a quality which is acceptable or unacceptable, it is people’s understandings, what differ and because of that, neither hate crime, nor has punishment ever been standardised. Explanation of absence of standards in hate crime or punishment is stipulated by the fact that both express not a reasonable reaction towards a particular person, but attitudes of a particular society to a quality or an act (Hillyard & Tombs, 2004). The endeavour of explaining the reason of cultural differences as regard to punishment and hate crime will be provided in the following part of this chapter.

- 2) Infliction of harm to protect a set of rules accepted by the mainstream at a time (Perry, 2001; Marx, 1977, as cited in Kuper & Kuper, 1996);

Crime of aggression (Rome Statute, 2002) has been implemented worldwide and capital punishment has been abolished in a number of countries.

A famous philosopher opined in his last book:

‘What is happiness? – The feeling that power increases – that resistance is overcome.

Not contentment, but more power; not peace at any price, but war: not virtue, but efficiency (... virtue free of moral acid) (Nietzsche, 1888, p. 2)’.

One of the world’s greatest thinkers did not consider war unacceptable, neither he considered moral restrictions to be useful. Although Nietzsche and Kant were starkly different thinkers, the latter (1887, p. 144) also had some similar cruel views: ‘whoever has committed murder, must

die', he said. These quotations of the famous philosophers demonstrate how different and simultaneously very well-reasoned can be understandings as to what constitutes an unacceptable behaviour. Even most horrible atrocities can be 'justified' from some people's point of view, including well-educated thinkers.

It is underlined in the previous chapter, that a crime is an essential ground for punishment. Existence of different understandings about the ground of the phenomenon questions its legitimacy and likens it to hate crime: crime, has no ontological reality, but is based on social judgements (Hillyard & Tombs, 2004), like hate crime is usually based on social bias (Iganski, 1999). According to the above cited zemiological critique to crime and criminology by Hillyard and Tombs, there are no central properties that belong to the notion of crime and that is why crime vary across time and space. As it is discussed in the first chapter, hate crime is a mechanism of power, intended to reaffirm the unjustified hierarchies of a given social order (Perry, 2001). Punishment does the same, although it is legally approved, it still expresses not an ontologically existed order, but promotes interests of a particular class (Marx, 1977, as cited in Kuper & Kuper, 1996) or a group having power *inter alia* over a law-making process (Whyte, 2009). A good example of this might be Soviet Union's and its allies' influence over the process of drafting the United Nations Convention on the Prevention and Punishment of Genocide in 1948, when they managed to eliminate social, economic and political groups from the definition of genocide (Naimark, 2010).

Therefore, the argument that punishment is legally approved is not capable of showing conceptual difference between punishment and hate crime, but it makes the former even more similar to the latter: Certain ideas originate or are widespread not necessarily because that they are fair, but simply because they sanction existing social relations and law, in particular, is an

effective tool to ‘sanction the existing order’ and grant it ‘independence from mere chance and arbitrariness’ (Marx, 1977, as cited in Kuper & Kuper, 1996, p. 507). Hate crime for its part is not a static phenomenon as well, but it is historically and culturally contingent and is also related to personal or collective social experiences (Schweppe, 2012), rather than objective reality. If this analysis seems sensible so far, the next step will be relatively simple, because it will not be surprising to argue, that punishment, as a conception based on the values of the hegemonic classes, oppresses, stigmatises and marginalises (Nathan 2005; Walker, 1980), just like hate crime does (Nathan, 2005).

3) Oppression, stigmatisation and marginalisation (Perry, 2001; Nathan 2005; Walker, 1980).

One of the most popular forms of punishment, widely recommended to be limited though, is incarceration, ‘a collective residential restraint’ (Hirsch, 1976, p. 107). People considered to have deserved (Duff, 2002) this type of punishment are put together apart from the society and therefore marginalised. To describe conditions in prisons might not be appropriate, especially taking into account the diversity between countries in this regard. What is the common feature of all of them is that each prison classifies and treats incarcerated people as criminals (Hillyard & Tombs, 2004). Stigmatic effects of being found guilty and sentenced by a criminal court has a set of complications (Walker, 1980) which include ostracism, loss of job, family problems and etc. (Hillyard & Tombs, 2004). Although hate crime is extension of the existing oppression experienced by minority groups in a society, a crime still manages to complicate existing problem by further marginalisation and stigmatization: Hate crime as an attempt to re-create the

real or imagined hegemony of the perpetrator's group, is aimed to remind a victim his/her 'appropriate' subordinate identity (Perry, 2001).

In 1977 Christie questioned necessity of having 'any criminology' and opined that 'maybe we should rather abolish institutes, not open them. Maybe the social consequences of criminology are more dubious than we like to think' (p. 1). Doing so the author put a seed for a distinctive alternative to rival theories of punishment, a conception with a rising popularity (Brook, 2012) - restorative justice (RJ).

### **Instead of the sanctioned hate: Advantages of RJ**

'Power is of two kinds. One is obtained by the fear of punishment and the other by acts of love. Power based on love is a thousand times more effective and permanent than the one derived from fear of punishment'. (Gandhi, as cited in Amiri, 2014, p. 4)

Various definitions of RJ are discussed in detail in a number of papers (Gavrielides, 2007; Walters, 2014). As far as this essay addresses the specific conceptual issues of punishment and its resemblance with hate crime there is no need to endeavor providing an exhaustive definition of RJ. One of the frequently referred definition is one provided by Marshal (1999, as cited in Gavrielides, 2007, p. 44), according to which RJ is a 'process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future'. Although a possibility to use punitive elements in the frames of restorative justice is also suggested (Duff, 2002), it is not universally accepted (Walters, 2014),

including this paper, because implementing punitive elements undermines whole idea of restorative justice which is based on voluntariness and equality (Gavrielides, 2007).

Alongside the critique of a traditional criminal justice a number of advantages of a process orientated on repairing harms (Walters, 2014) is suggested by a number of scholars. By bringing conflicts back to the parties, which were other people's ('professional thieves' (Christie, 1977, p. 3)) property, RJ suggests a system free of inequality, censure and stigma. It should not be understood as if RJ is free of social condemnation, but it is conveyed through active participation of stakeholders on the equality basis (Walters, 2014). The difference is that if punishment seeks censure for an offender, RJ's target is an offence and related harms *per se*.

It is widely argued that RJ is not just theoretically strong conception, but efficient instrument to deal with 'deviant behaviour'. Dealing with this a particular behaviour which is considered to be unacceptable for a specific group is essentially different from what was discussed about Marxist approach to legal rules. It is different because it works on a voluntary basis where offender is also listened and is not oppressed by a ruling class. By providing an opportunity for offenders to face the consequences of their actions, perceive its impact upon others and contribute to healing the wound where possible, RJ motivates offenders to become law-abiding (Ministry of Justice, 2014). Its efficiency compared to punishment might be well-illustrated by the following comparison: If we compare the social goods (life, freedom, property and other values protected by criminal law) with a bag of gold, each offence would decrease the amount of the gold. To compensate this loss, additional amount of the gold would be needed to put in the bag. What punishment does is that it takes even more gold from the bag, because it necessarily involves loss (Brooks, 2012) directed to the offender, while RJ does not lose time for

the vague purpose of justice and by focussing on repairing of the harms (Walters, 2014), it provides an efficient tool of compensating amount of gold lost by the offence.

## **Conclusion**

Having analysed a range of papers about several independent legal conceptions as well as philosophic approaches to law and unacceptable behavior, original understanding of punishment, as a manifestation of hate is suggest. This claim is essentially based on the analysis of the similarities of punishment and hate crime. For this purpose overviews of both of them is suggested followed by comparative analysis of two conceptions. The following characteristics are identified as essential for both, hate crime and punishment: using unstandardised violence (Wolfe & Copeland, 1994), infliction of harm (Gendin, 1976) or loss (Brooks, 2012; Nathan, 2005) for the purpose of protection of a set of rules established by a dominant group (Perry, 2001; Marx, 1977, as cited in Kuper & Kuper, 1996) followed by oppression, stigmatisation and marginalization for the wider purpose: to remind an addressee his/her 'appropriate' subordinate identity (Perry, 2001; Walker, 1980).

It is argued, that punishment likens to hate crime because its base, crime has no ontological reality, but is grounded on social judgements (Hillyard & Tombs, 2004), just like hate crime is based on not objectively relevant differences between people, but social bias (Iganski, 1999), derived from personal experiences (Pirsing, 1974 as cited in Bowling, 2006).

A central thesis of Marx, that 'class position, so defined, determines the characteristic consciousness or world view of its members' (Marx, 1977, as cited in Kuper & Kuper, 1996, p. 508) is used to support the idea that punishment is a mean of social control where a dissident is

punished, because he/she does not conform to the rules established by a hegemonic group. From this point of view punishment is seen as a tool of 'doing difference' in the hands of a hegemonic group against a minority to recreate simultaneously the threatened hegemony, just like hate crime (Perry, 2001).

The final chapter suggests that RJ can be a potential substitute for punishment as an instrument free of hate. This part by no means has an ambition to cover the topic of replacement punishment with RJ or any other conception in general, but just discusses it in the frames of problems analysed in this essay before. Equality of the stakeholders of RJ (Walters, 2014; Gavrielides, 2007) is seen as a crucial feature which makes the latter different from punishment and puts it further from hate, in the theoretical framework at least.

Sole thing that would be capable of justifying a usage of a measure violently might be a natural instinct of self-defence, notwithstanding responsibility of an aggressor, but censure is different. All of us are supposed to be righteous (Foy, 2008), even performers of the atrocities during second world II, including Joseph Stalin (Naymark, 2010) and Adolf Hitler (Bloxham, 2008) considered their actions righteous and managed to convince masses in the same. Therefore, even if it was proved, that an agent made a choice to act against law, having had ability to perceive how legislation was looking at right and wrong, it still does not provide sufficient evidence to give somebody a moral right to punish.

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