Do We Need a "Hate Crimes" Law?

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Congress is once again weighing the possibility of passing a hate crimes bill that would give special federal protection based upon race, religion, gender, and sexual orientation. Representative Sheila Jackson-Lee (D-TX) introduced the David Ray Hate Crimes Prevention Act of 2007 (HR 254) in January. Many believe that if the bill is passed, it could open the door to prohibit any opposition to homosexuality whether in the church or the society at large.

It is quite possible that hate crimes legislation might even be used to define biblical language as hate speech. For example, city officials have already had a billboard removed in Long Island, NY, because it was classified as hate speech. The billboard read: If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination. (Leviticus 20:13)

Consider how hate crimes legislation in Philadelphia was used against Christians. In 2004, six men and five women were arrested in Philadelphia while preaching and speaking during a public homosexual celebration known as OutFest. These Christians (later known as the Philadelphia Eleven) walked into the gathering singing hymns and carrying signs encouraging homosexuals to repent. They were immediately confronted by a militant group of gay activists known as the Pink Angels. These activists blew loud whistles and carried large pink signs in front of the Christians in order to block their message and access to the event. Many of the gay activists screamed obscenities at the Christians.

Those arrested ranged in age from a 17-year-old girl to a 72-

year-old grandmother. After spending twenty-one hours in jail, the Philadelphia District Attorneys office charged five of them with various felonies and misdemeanors stemming from Pennsylvanias hate crimes law. If the Philadelphia Eleven were convicted of these charges, they would have faced forty-seven years in prison and $90,000 in fines each.

Even though a video clearly showed that no criminal activity took place, the prosecution refused to withdraw the charges, and characterized the groups views in court as hate speech. The judge for the Philadelphia County Court of Common Pleas Judge finally dismissed the charges, saying that she found no basis whatsoever for any of them.{1}

But even apart from the concerns about how a hate crimes law could be used to promote the homosexual agenda are deeper concerns about hate crimes legislation in general. For example, there is a major question whether hate crimes are really the problem the popular press makes them out to be. The FBI annually publishes Hate Crime Statistics. The most recent report shows that hate crimes reached an eight-year low in the last reporting period. A study by the Family Research Council found that there are significant discrepancies between hate crimes reported by law enforcement and the media.{2}

Hate crimes laws also rest on the flawed assumption that enhanced penalties deter crimes. First, there is no evidence of this. Most of these crimes are crimes of passion and are not likely to be influenced by greater criminal penalties. Second, the argument for greater deterrence usually comes from those who argue that the death penalty has no deterrent effect. Do they really believe that a hate crime law deters a criminal simply because he or she might spend a few extra months in jail?

A final objection to these laws is that they criminalize thought rather than conduct. Hate crimes laws essentially punish thought crimes. They punish people because of their

point of view. Criminal prosecutions delve into more than the defendant's intent; they inquire into the opinions about his or her victim. And trying to distinguish between opinions and prejudice is often difficult.

Justice Oliver Wendell Holmes said, "If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate."{3}

We may not like what some people think, but we should not have laws on the books to punish thought crimes. We already have laws on the books to punish what a person does. Those laws are sufficient to punish those who commit crimes of hate.

Notes

1. "Judge drops all charges against Philly Christians," *WorldNetDaily*, 17 February 2005, www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42905.
2. Leah Farish, "Hate Crimes: Beyond Virtual Reality," Family Research Council, www.frc.org/get.cfm?i=IS03K01.
3. Oliver Wendell Holmes, *United States v. Schwimmer* 279 U.S. 644 (1929).

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