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Hate-crime legislation would backfire

Prosecute violent criminals for their actions, not their ideas.

By David Rittgers

WASHINGTON

Congress seems intent on passing new hate-crime legislation. It may sound like a surefire way to tamp down on hate crime, but it won't work.

The law would expand federal jurisdiction from crimes motivated by the victim's race, color, religion, or national origin to include the victim's gender, sexual orientation, gender identity, and disability. It also disconnects the prosecution from traditional civil rights statutes such that whole categories of intrastate crimes successfully prosecuted by state courts would become the business of the federal government.

There are two problems with the proposed law. First, crimes motivated by racial animus, misogyny, or homophobia are already recognized as atrocities and prosecuted to the fullest extent of the law. No new law is needed. Second, making the ideology of the perpetrator a centerpiece of the trial doesn't deter like-minded extremists; it encourages them.

We don't have to look far through today's headlines to see that the current system works. Those who commit crimes of violence motivated by extremist ideology are consistently locked up by a rule of law that criminalizes their actions, not their ideas.

Scott Roeder is accused of shooting abortion doctor George Tiller to death; he is sitting in jail awaiting prosecution. The same goes for Abdulhakim Mujahid Muhammad, who shot up an Army recruiting station in Arkansas and killed Pvt. William Long. As soon as Holocaust Museum shooter James von Brunn is out of the hospital, he can join them.

Each of these depraved individuals saw a world out of touch with their values, and there are others like them. The difference between these three individuals as lone radicals and the broader inspirations for antiabortion, radical Islamic, and anti-Semitic groups is how they are perceived by their audience. Not the public at large, but the audience of like-minded individuals who might copy their actions.

A smart prosecutor would not go down the road of a suspect's approved and disapproved motivations to kill someone. Murder is always murder most foul. If you try extremists or domestic terrorists for their actions, not their ideas, they are no longer martyrs. No longer heroes, freedom fighters, nor revolutionaries. They are criminals.

With these kinds of defendants, the worst thing you can do is charge them under a statute that criminalizes their ideas. When the whole point of their violence is to stir up like-minded people, hate-crime charges are so counterproductive they border on the insane.

The indicted murderer can now proudly stand in court and espouse why it was necessary to kill someone in cold blood. The prosecutor, claiming that a crime for the sake of an idea is somehow worse than a crime for money or a crime of passion, will rail against the racist/sexist/homophobic nature of the defendant.

In a sense, the murderer then wins. He can blame the new law that protects a certain class of people more than others. This is the same class of people that he says runs or exerts undue influence over the government.

Worse yet, the proposed legislation picks favorites among the public. Mr. Von Brunn could arguably be charged under the proposed hate-crime legislation because he targeted a Jewish museum and shot an African-American guard. Mr. Roeder's crime had the same death toll, but because there is no hate-crime protection for abortion providers he is outside the hate-crime ambit (though arguably subject to prosecution under a separate overfederalization of violence against abortion providers).

Mr. Muhammad wanted to kill an American soldier and he did, but it's not a hate crime unless he was specifically looking for a Christian, female, or gay soldier.

The folly of this legislation was put on display in recent Senate Judiciary hearings. Sen. Ben Cardin (D) of Maryland said that hate crimes not only hurt the victim, they diminish the whole community.

If this is the case, then the best remedy is for the community to reinforce its values and make itself whole by prosecuting a violent criminal for his actions.

If there is a subset of the local population that shares the views that drove the perpetrator to commit his crime, then the imposition of federal jurisdiction based solely on the motive of the criminal engenders resentment and encourages others to mimic his behavior.

What is being proposed is feel-good legislation that gives ideologues more incentive to commit their crimes and a bigger platform for their views. The federal government should not create an aid program for hatemongers.

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