Student’s Name

Professor’s Name

Course Details

Date of Submission

# The Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009

The Mathew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009 is a law that makes hate crimes a substantive offense and thus punishable under federal law. It was established as Division E of the National Defense Authorization Act 2010. The law was created to respond to the perpetration of harm, violence, and murder against people 'because of' their gender, sexual orientation, religion, or race (Duimovich 300). It is a vital law in preventing hate crimes, seeing as, before its enactment, there was little ground through which persons who perpetrated the hate crimes would be prosecuted. The law criminalizes any acts that willfully causes bodily injuries through the use or attempt to use firearms, fire, or other dangerous weapons unde two conditions. The first one is when an individual committes a crime due to perceived or actual color, race, national origin of the victim. The second condition is when the crime is commented because of perceived or actual religion, gender, national orgin, sexual orientation, disability, or gender identity of the victim.

Still, the existence of The Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009 has not deterred hate crimes seeing as, and according to Boram (343-347), the law presents problems or contradictions to First Amendment law and prosecutorial discretions problems. The statute is equally criticized for the intricate standards of proof of what qualifies as a hate crime. Of note is the requirement that proving an act is committed because of hate toward the victim under the statute would require undeniable and elusive proof that the acts of violence were motivated by or committed because of hate toward the victim (Boram 344). Thus, the courts have experienced immense challenges in the past proving that a crime was committed due to hate.

## Background

The statute came into effect following its passing and signing into law in 2009 by the 111th Senate and President Barrack Obama. Its enactment came in over a decade since the murders of Matthew Shepard and James Byrd Jr. in 1998 (Duimovich 299). The two men were murdered because of who they were and whom they loved, making their murders different from ordinary crimes (Boram 345). The murder of James Byrd Jr. was prosecuted and resulted in the conviction and sentencing of the three perpetrators, two to death and one to life imprisonment. Both the Byrd and Mathew Shepard murders proved challenging to prosecute under the Federal Civil Rights Statutes that existed at the time (Duimovich 304).

## Definition of the Law

In its letter and spirit, the Shepard-Byrd Act 2009 statute defines and designates it as unlawful any willful act or attempt to act willfully to cause bodily injury with fire, firearm, or any other dangerous weapons; if and when such act is motivated by or affected because of the actual or perceived race, color, religion, national origin of any person (18 U.S.C. § 249). Further, the statute finds such action unlawful if and when the perpetration of bodily injury or an attempt to do so befell any person because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability; and was perpetrated across states, or within any federal territory or federally protected areas (18 U.S.C. § 249).

An additional aspect of the statute also dedicates resources such as funding and technical assistance to state, local, and tribal jurisdictions to facilitate the effective prevention, investigation, and prosecution of hate crimes as defined by the statute. The law is equally defined by its outline and provision of sentence limits of 10 years for hate crimes that do not result in death (18 U.S.C. § 249). In instances where such criminal acts involve kidnapping, attempted kidnapping, aggravated sexual assault, or attempted aggravated sexual assault, the sentencing must consider the implication of such actions (18 U.S.C. § 249). The law imposes a statute of limitation of 7 years for cases where the hate crimes do not result in death, while incidences resulting in death have no limitation on the date and time to initiate prosecutorial actions.

## Public Perception and Reception of Statue

Boram (343-344) notes that the American nation was divided on the events; the murders of Mathew Shepard and James Byrd Jr. that led to the creating of the Shepard-Byrd Act 2009. Notably, a portion of the society felt and still feels that the inclusion of sexual orientation as a protected class under the federal civil rights statutes is uncalled for, while another portion believes that the failure of the law to produce tangible results in the prosecution of hate crimes and the reduction of the same makes it unnecessary or inadequate (Duimovich 300). However, others supported the law by arguing that the inclusuion of other social factors such as sexual oritentation was a demonstration that the law has a wider scope since social issues keep evolving leading to the emergence on new issues. It is clear that some within the nation care not for the protection of civil liberties and American lives and would go as far as to organize against any effort to achieve such protection for the vulnerable (Boram 344).

Others within the society are also too keen to provide such protection regardless of legal and constitutional limitations on how far or how strongly such protection can apply. For example, those calling for strengthening the current statute to attain convictions fail to consider that alterations to the statute's current provision would greatly contravene first amendment rights and infringe on prosecutorial discretion (Boram345). In this regard, the problem is not the strength or lack thereof of the law, but instead, it is the perception of Americans toward one another. The American nation remains divided, and no law can heal the divisions and animosity that different groups feel toward one another. Moreover, no law should be created to do so since that would limit the law's power by making laws tools to appease one group. Therefore, it is until individual Americans learn to deal address issues that affect the due to racial, gender, religion, and race disparities, that they will fully embraces and effect laws against hate crime.

## Author Perception and Reception of the Statue

Acts of violence against individuals or groups based on who they are, whom they love, pray to, or their gender is significant societal problems. In American society, the problems in this regard are even more expressed due to the long-lasting animosity against certain groups because of their skin color, gender, or sexual orientation (Duimovich 297-298). A sizable number of citizens believe that specific individuals or their whole groups are undeserving of life and even government protection. This perception of others is un-American, seeing as America as a nation was founded on the very principle of providing all of humanity a safe place to pursue their dreams.

This author is very pleased with the Mathew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009, in that it is a powerful attempt by the nation to root out and reign in the enemies of America and her values. However, the author also feels saddened that the law took over a decade to pass through congress. It is baffling that such a vital civil rights law would take that long, as though protecting human life is even a matter for discussion.

## Discussion and Conclusion

The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, 18 U.S.C. § 249 (2009) remains a valued addition to American law. This law is particularly important as it expanded the definations of hate crime to include other social factors such as sexual orientation, gender identity, disability, an gender. Additionally, it is after the implementation of the law that jurisdicitional obstacles on the prosecution of religion and race motivated violence were removed. Notably, the law demonstrates that hate crimes significantly affect not only the vicitims but also the community at large since they create divisions among American citizens Its purpose, to prevent and reign in the high incidences of hate crime, makes it an essential component of reconciliation and control over animosity among the American population. That it is limited in its impact only shows that the nation requires more than the law to attain safety and protection for the vulnerable.

Works Cited

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Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, 18 U.S.C. § 249 (2009).