

The Sexist Violence Against Women Act

One little-known section of the crime bill wending its way through Congress is less about fighting crime than it is about waging gender warfare.

The Violence Against Women Act, sponsored by Sen. Joseph Biden (D., Del.) since 1990, was passed by the Senate as part of the omnibus crime package in November. In slightly different form, it is part of the House bill to be voted on this week. In Sen. Biden's own words, "The whole purpose of this legislation is to raise the consciousness of the American public." Among the "experts" his staff consulted on the bill was Andrea Dworkin, author of a book arguing that all sexual intercourse is rape.

Backed by conservatives such as Sen. Orrin Hatch (R., Utah), the Violence

Rule of Law

By Cathy Young

Against Women Act has many appealing provisions: federal grants to states to combat sex crimes and improve security in public places; the requirement that rape victims be consulted about their safety concerns when the defendant is released on bail. But it also mandates "gender sensitivity" training for judges and, in a key section, extends federal civil-rights protections to "crimes motivated by gender."

While the text of the bill offers few clues to how broadly such crimes would be defined, its champions suggest that every rape and domestic assault would become a potential federal case. "A rape or a sexual assault should be deemed a civil-rights crime just as hate beatings aimed at blacks or Asians," Sen. Biden said at a 1990 hearing.

Yet the underlying feminist view that women are raped on the basis of gender—

in the political rather than biological sense, i.e., in the same way that blacks were lynched on the basis of race—is rejected by virtually all sex-crimes researchers. Some rapists are driven by hatred of women, but most seek either gratification or a sexual outlet for generalized aggression and anger.

Moreover, males are sexually assaulted, too. Sen. Biden's assertion that 97% of sex-crime victims are female is not based on any known data. According to Justice Department numbers, 7% to 10% of rape victims over the age of 12 are male (not counting most prison rapes). Twenty-five percent to 40% of children who are sexually abused are boys. Male street kids are at especially high risk. Yet the legislation authorizes funds for the prevention of the sexual abuse of only "female runaway, homeless, and street youth."

Sen. Biden asserts that civil-rights protections for "sex-based crimes" would cover men, too. But the very concept of rape as a hate crime is based on the fact that it disproportionately affects women and on the notion that rape is, as feminist law professor Catharine MacKinnon puts it, "both an act and a symbol of women's subordinate status to men." It is likely, therefore that male-on-male rapes would be labeled "random" crimes, which the act specifies would not be covered.

Treating domestic violence as "gender-based" is equally dubious. Even feminist legal scholar Elizabeth Schneider acknowledged—in a 1992 article in the New York University Law Review—that violence toward same-sex lovers and toward elders "challenges the notion that sexism defines battering." Under the logic of the Violence Against Women Act, an elderly woman is protected if she is beaten by her husband but not if she is beaten by her daughter; a jealous husband can face a civil-rights suit if he stabs his wife but not if he stabs her lover.

The bill uses federal grants to reward jurisdictions that enact mandatory arrest for misdemeanor domestic assault (a policy many experts, including former supporters such as criminologist Lawrence Sherman, regard as often counterproductive). Grant-eligible states are also required to "discourage 'dual' arrests of abused and abuser." Decoded, this means that an officer responding to a domestic dispute should arrest the man but not the woman, even if there is probable cause to detain both.

Sally Goldfarb, a senior attorney for the Legal Defense Fund of the National Orga-

Under the logic of the Act, an elderly woman is protected if she is beaten by her husband but not if she is beaten by her daughter; a jealous husband can face a civil-rights suit if he stabs his wife but not if he stabs her lover.

nization for Women, believes that women are arrested only in retaliation for having "bothered" the police. Yet many studies show that both sexes initiate domestic violence at nearly equal rates, and the line between "abused and abuser" is by no means always clear. "The only reason to discourage dual arrests is if you believe that facts don't matter—men are always to blame," says Mr. Sherman. He personally witnessed an incident in Washington state (where anti-dual arrest measures were passed in response to feminist lobbying) in which a man was arrested after his wife had hit him but he had only yelled at her.

Sen. Biden and his supporters claim

that the Violence Against Women Act, despite its title, is "gender-neutral." Clearly, it is not. It is biased against men, who are the primary victims of violent crime. Compared with women, federal statistics show, men face four times the risk of aggravated assault by strangers, twice the risk of aggravated assault by acquaintances and three times the risk of homicide.

The Violence Against Women Act is being foisted on the American people with no open debate. The four Senate Judiciary Committee hearings in 1990 and 1991 heard only witnesses who favored the bill. At the first hearing, Sen. Biden voiced concern that critics might be holding back for fear of appearing "anti-women." Yet when men's-rights activist Jon Ryan asked to testify about the gender bias in the act, his requests were ignored. In a letter, Sen. Biden suggested that Mr. Ryan submit his testimony for the written record. He did so; when the record appeared, his statement was not included.

With rare candor, Ms. Dworkin told a journalist that the only possible explanation for the bill's popularity was that "senators don't understand the meaning of the legislation they pass." Maybe they should heed her words and take a second look.

Mainstream and conservative support for the Violence Against Women Act stems from a vague desire to be "good" on women's issues as well as an old-fashioned paternalism that finds violence toward women uniquely abhorrent. In part, it is a sincere effort to address real problems. But that goal could be accomplished by straightforward legislation on sex crimes and family violence that does not trivialize assaults on men and boys or give an official seal of approval to a radical ideology that sees American women as victims of systematic gender terrorism.

Ms. Young is writing a book, titled "Gender Wars," for the Free Press.

Harm

h velcro fas-
e so that the
ain or what-
as quickly as
he is scream-
which he can-
ped down and
ives as unac-
everyone is
's plight, but
the problem is
stand.

woman with
unable to un-
e to her and
justification
tortured. An-
sensibilities
or the mask,
was already
tubes and the
ys that were
an-ideal the
with a scalp
till and does

Mr. Rocke-
he came face
ful situation
his or mine,
problem is
essive treat-
eimer's itself
y that in the
ound for this
neantime we
to encourage
other at-pre-
most hopeful
arried out by
gislation we
panies' "ex-
have a direct
e able to plan
sibly believe
better deci-
ere to spend

B. STOCKTON