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**hearing on**  
**“THE MATTHEW SHEPARD HATE CRIMES PREVENTION**  
**ACT OF 2009”**

**before the**  
**SENATE JUDICIARY COMMITTEE**

**June 25, 2009**

## **INTRODUCTION**

Chairman Leahy, thank you for the opportunity to submit this statement on behalf of Human Rights First in support of the Matthew Shepard Hate Crime Prevention Act of 2009 (S.909).

Human Rights First believes that building respect for human rights and the rule of law will help ensure the dignity to which every individual is entitled and will help stem tyranny, extremism, intolerance, and violence. Since 2002, Human Rights First's Fighting Discrimination program has sought to reverse the tide of racist, antisemitic, xenophobic, anti-Muslim, homophobic and other violent bias crimes across North America, Europe, and the former Soviet Union.

Human Rights First applauds your efforts to press for passage by the Senate of S.909 at the earliest opportunity. Hate crime is a serious problem in the United States, and we have been concerned by certain omissions in the government response to them. The adoption and implementation of S.909 is an important step toward a comprehensive response to the problem at home, and toward ensuring continued U.S. leadership to combat the scourge of hate crime globally.

This statement sets the basis for our support of S.909, reflecting our findings on the incidence of violent hate crimes in the United States, together with recommendations for action. It also describes the larger global problem of bias-motivated violence, providing further recommendations for the U.S. government to combat hate crimes at home and to strengthen its leadership in both bilateral and multilateral efforts to confront the problem abroad.

## **HUMAN RIGHTS FIRST'S SUPPORT FOR S.909**

Human Rights First strongly supports the Matthew Shepard Hate Crimes Prevention Act (S. 909) as it will help to ensure that law enforcement authorities have the tools they need to combat violent hate crime in the United States. This critical legislation, which has already passed in the House of Representatives in a bipartisan vote of 249-175, could prove to be one of the nation's strongest weapons to date to protect those who are most vulnerable to bias-motivated violence.

Forty-five states and the District of Columbia have hate crime laws, but many of those laws do not cover crimes based on disability, gender, gender identity, or sexual orientation. S. 909 would close this gap by providing federal law enforcement officials with the authority to investigate and prosecute a wider range of bias violence, including that based on disability, gender, gender identity or sexual orientation. And while state and local authorities will continue to investigate and prosecute the large majority of hate crime cases, S. 909 would provide an important backstop by ensuring that federal authorities can provide assistance in state and local hate crime investigations and by authorizing federal prosecutions when state and local authorities are unable or unwilling to act.

Importantly, the bill would also make grants available to state and local communities to train law enforcement officers or assist in state and local investigations and prosecutions of bias-motivated crimes.

In endorsing this legislation, Human Rights First has joined more than 275 national civil rights, professional, civic, education, and religious groups, twenty-six state Attorneys General, and a number of the most important national law enforcement organizations in America. Additionally, more than five thousand Americans have acted together with Human Rights First, writing to their respective Senators to express their support for this critical bill.

## **HATE CRIMES IN THE UNITED STATES**

In 1998, the murder of Matthew Shepard sent shock waves through the nation. A 21-year-old gay student at the University of Wyoming, Shepard was brutally beaten, tortured, tied to a fence, and left for dead. Eighteen hours later, a bicyclist found Shepard, initially thinking he was a scarecrow. He was rushed to the hospital and died five days later. Though it is widely believed and acknowledged that Matthew Shepard was targeted precisely because of his sexual orientation, his killers were not charged with a hate crime. There wasn't then and still isn't a state hate crime law in Wyoming.

Now, more than a decade later, hate violence remains a serious problem in the United States. As we documented in our 2008 report on *Hate Crime in the United States*, hate crimes in this country include assaults on individuals, damage to homes and personal property, and attacks on places of worship, cemeteries, community centers, and schools. In the report for 2007, the FBI documented 7,624 hate crimes directed against institutions and individuals because of their race, religion, sexual orientation, national origin, or disability. The prejudices differ from case to case, and often multiple prejudices combine in a single crime. Behind these statistics are individuals, families, and communities deeply impacted by these violent crimes. By undermining the shared value of equality and nondiscrimination, violent hate crimes also threaten the very fabric of the increasingly diverse society in which we live.

FBI hate crime statistics for 2007—the latest year available—documented a continued upward trend in certain categories of bias-motivated violence and confirmed the need for a more vigorous response by the federal government, including enactment of S.909 and other steps outlined below.

- Although the overall number of reported hate crime incidents remained steady from 2006 to 2007, reported violent attacks against persons of Hispanic origin continued to increase. According to the new FBI report, there were 595 incidents of anti-Hispanic hate crimes in 2007, an increase of 3.3% from the 576 incidents reported in 2006. In the period from 2003—2006, FBI hate crime reports reveal a 35 percent rise in hate crimes against people of Hispanic origin.
- There was also a rise in the number of hate crimes motivated by sexual orientation bias, with a 5.5% increase in incidents from 2006 to 2007 (from 1195 to 1265 incidents). Five of the nine reported hate crime killings were on the basis of sexual orientation bias. There is also a higher proportion of personal assaults targeting this victim group than in other categories of hate crime; over 47% of sexual orientation bias offenses were violent assaults, in comparison to 31% for all hate crimes. Nongovernmental surveys point to a staggering percentage of sexual orientation bias crimes that are not reported to the police, while these crimes are growing rapidly throughout the country.

Overall, people of African descent comprised the largest number of victims of violent hate crime, reflecting longstanding patterns of such crimes in the United States. However, new trends of rising

anti-immigrant violence were also part of the larger pattern of racism and xenophobia: anti-immigrant hate crimes took the form of personal assaults leading to serious injury or death, as well as threatening graffiti on homes and businesses. The violence has emerged in the context of anti-immigrant and anti-Hispanic rhetoric in the news media, increasingly echoed by politicians and community leaders. Immigrants have been denigrated, dehumanized, and demonized.

Jewish people continue to be among the principal victims of racism combined with religious hatred and prejudice, with antisemitic crimes continuing at high levels. Antisemitic crimes ranged from attacks on synagogues and schools and vandalism of homes to physical assaults on religious and community leaders. Racism and religious bias also conspired to drive attacks on people of Muslim origin, with arson attacks on mosques and Islamic community centers, and attacks on ordinary citizens and immigrants who happen to be Muslims. These hate crimes placed people of Middle East and South Asian origins under threat whether or not they were Muslims, even as Muslims faced the double discrimination of racism and religious prejudice. Perpetrators of religious bias crimes also targeted Christian churches, their congregations, and clergy for crimes ranging from threatening graffiti to arson and deadly gunfire.

People with disabilities have also been targeted for ongoing abuse, torture, and murder. The number of attacks against disabled people is generally understood to be severely undercounted.

## **RECOMMENDATIONS FOR U.S. GOVERNMENT RESPONSE TO HATE CRIMES**

Passage of S.909 would fill long-standing gaps in the federal response to violent hate crimes. Human Rights First recommends the following additional steps to strengthen that response.

- ◊ Congress should expand the mandate of the Community Relations Service of the Department of Justice to respond to community conflicts not only based on race, color, and national origin, but also to those based on religion, gender, sexual orientation, gender identity and disability—the full range of categories that will be covered by the Local Law Enforcement Hate Crime Prevention Act.
- ◊ The Department of Justice should take steps to increase hate crime reporting by local jurisdictions, targeting agencies that have not participated, have underreported, or have reported zero hate crimes in the past.
- ◊ Senior political leaders and law enforcement officials at all levels of government should condemn violent hate crimes, incitement to violence, and the demonization of any community, including immigrants, regardless of their status.
- ◊ The Department of Justice and/or the Department of Homeland Security should study the causes of increased bias-motivated violence against immigrants and Hispanic Americans, and report publicly on the findings.
- ◊ The Departments of Justice and Education should fund tolerance education and hate crime prevention initiatives. Congress should direct or authorize the Department of Education to do so in any elementary and secondary school education reauthorization legislation.

## THE UNITED STATES IS A GLOBAL LEADER IN COMBATING HATE VIOLENCE

Violent hate crime is a global problem. In our *2008 Hate Crime Survey*, Human Rights First documented a rising tide of racist, antisemitic, xenophobic, anti-Muslim and homophobic violence across Europe and the former Soviet Union and found that the majority of governments in these countries are failing to adequately address the problem.

- There were moderate to high rises in the overall recorded numbers of violent hate crimes motivated by racism and xenophobia in 2006 and 2007 in Finland, Ireland, the Slovak Republic, Sweden, and the United Kingdom. In the absence of official data, information from nongovernmental monitors showed rising levels of racist violence in Greece, Italy, the Russian Federation, Switzerland, and Ukraine. Individuals of African origin and Roma were particularly targeted in acts of racist and xenophobic violence in 2007 and 2008.
- Antisemitic hate crimes are also occurring at historically high levels in much of Europe—a reminder that the crimes of anti-Jewish hatred that culminated in the Holocaust are not merely a matter of history. In 2007, overall levels of violent antisemitic attacks against persons increased in Germany, the Russian Federation, Ukraine, and the United Kingdom according to official statistics and reports of nongovernmental monitors. There are several other European countries where antisemitic violence is also problematic, but where reliable statistical information on attacks—either from official or unofficial sources—is much less readily available.
- Anti-Roma and anti-Muslim hate crimes have also persisted in Europe in a climate of growing anti-immigrant bias and racist violence. There has been a surge in violence against Roma in 2007, especially in Italy where entire Roma settlements were razed and their inhabitants driven away without intervention by the police. Although there is ample evidence of violence targeting Muslims and those perceived to be Muslims across Europe and North America, only three European governments—Austria, Sweden, and the United Kingdom—publicly report on violent incidents motivated by this form of bias.
- Antigay violence is becoming more apparent in many parts of Europe. The increased public presence of gay rights movements has, especially in Eastern Europe and the former Soviet Republics, brought with it a rise in homophobic rhetoric and violent backlash. With homophobic violence as with other forms of hate crimes, underreporting remains endemic and thus the reported cases likely only represent the tip of the iceberg.
- Of particular concern are the Russian Federation and Ukraine. In Russia, the number of bias-motivated attacks on individuals continues to grow steadily, with 2008 being the fourth record-setting year in a row and with an annual number of bias-motivated murders approaching 100—by far higher than in any other European nation. Though government officials have begun to recognize the problem posed by neo-Nazi violence, the official response has been sorely inadequate. In Ukraine, too, racial, antisemitic and other bias-motivated violent crimes are on the rise. The government there has undertaken a number of steps to combat hate crimes, although its overall response to this problem has been inconsistent and insufficient.

Despite making official commitments to combat hate crime, many governments have yet to introduce an adequate legislative framework, establish systems of monitoring and reporting of incidents, and implement police training, educational, and community engagement programs that would contribute to a more robust response to the problem. Human Rights First has developed a Report Card that assesses the extent to which the members of the Organization for Security and Cooperation in Europe (OSCE) have adopted measures in the areas of hate crime legislation and data collection. As a result of our monitoring, we have concluded that:

- Most European governments are failing to live up to their commitments to the OSCE to monitor and collect data on violent hate crime, a prerequisite to an effective official response. Over 40 of the 56 OSCE states collect and publish either limited or no information specifically on the incidence of violent hate crimes. This gap in data collection can distort the full picture, as the countries that take the steps necessary to collect and publish the data can appear to be the ones with the highest number of incidents.
- 23 OSCE countries do not have laws criminalizing or establishing enhanced penalties for a range of violent crimes motivated by racial or religious bias, despite reports that violent hate crimes are taking place in many of those countries. Moreover, only 12 countries have laws that extend to sexual orientation bias; only seven extend to disability bias.
- Even when appropriate laws are in place, it is nearly impossible to know the extent to which they are being implemented. Even the best official data collection systems do not generally assess how well police are responding to incidents and the disposition of cases in courts. There is virtually no systematic data on this from nongovernmental sources as well.

The United States has led efforts to confront hate crimes through its foreign policy and through engagement in multilateral institutions such as the Organization for Security and Cooperation in Europe (OSCE). In addition to improving the U.S. government's response to hate crime at home, enactment of S.909 will allow the United States to lead by example in its international efforts.





Human Rights First recommends that the Obama administration strengthen the international leadership of the United States at the OSCE, advocate measures to combat hate crime in bilateral relationships, and expand efforts to support civil society organizations throughout the OSCE area, by taking the following steps:

#### ◊ Demonstrate International Leadership at the OSCE

- Advancing the OSCE's tolerance and nondiscrimination agenda by taking a leading role in encouraging the fulfillment by participating states of their obligations to combat racism, xenophobia, antisemitism, and other forms of intolerance and discrimination, in particular the obligations to collect hate crime data and to report that data to the Office for Democratic Institutions and Human Rights (OSCE/ODIHR).
- Providing for extrabudgetary contributions, secondment of personnel, and other in-kind support for OSCE programs to combat violent hate crimes, including by making available its law enforcement expertise. In this connection, undertaking a process to assess and reform the current mechanism of budget allocation by the State Department to ensure that the United States meets its funding obligations to the OSCE in a timely manner.




## Advocate in Bilateral Relationships and Offer Technical Assistance

Promote stronger government responses to violent hate crime among OSCE participating states through U.S. reporting as well as the bilateral relationships of the United States with those countries, by:

-  Organizing International Visitors Programs on combating bias-motivated violence for representatives of law enforcement, victim communities, human rights groups and legal advocates.
-  Maintaining strong and inclusive State Department monitoring and public reporting on racist, antisemitic, xenophobic, anti-Muslim, homophobic, anti-Roma and other bias-motivated violence—including by consulting with civil society groups as well as providing appropriate training for human rights officers and other relevant mission staff abroad.
-  Raising violent hate crime issues with representatives of foreign governments and encouraging, where appropriate, legal and other policy responses.
-  Offering appropriate technical assistance and other forms of cooperation, including training of police and prosecutors in investigating, recording, reporting and prosecuting violent hate crimes as well as translation of Department of Justice and Federal Bureau of Investigation (FBI) materials on hate crimes. Moreover, the FBI's International Law Enforcement Academy should include a hate crime component in its training of law enforcement personnel in emerging democracies of Eastern Europe and the former Soviet Union.

## Support Civil Society Organizations

Expand funding and other support to build the capacity of civil society groups in the OSCE region to combat violent hate crimes, by:

-  Providing extrabudgetary support to expand OSCE's civil society training program on combating hate crimes.
-  Ensuring that groups working to combat all forms of violent hate crime have access to support under existing U.S. funding programs, including the Human Rights and Democracy Fund and programs for human rights defenders.
-  Congressional establishment of a long-term funding program at the State Department, USAID or an outside agency to provide financial support for civil society groups in the OSCE region to monitor and report on violent hate crime, to advocate more effective laws and policies and stronger official responses to hate crime incidents, to provide services to victims, and to develop and implement programs to prevent and respond to hate crime.