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Victim-Rights Constitutional Amendment

Support

By Russell Butler

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Congress passed and President Bush signed the bipartisan "Justice for All" Act that appropriately includes provisions benefiting crime victims. When we inherited our law from England, victims investigated and prosecuted criminal offenses. As government subsumed criminal investigation and prosecution functions, victims became merely witnesses or, as one judge commented, only "bit players" in the justice system.

The victims-rights movement attempts to re-establish the victim as a participant in our justice system. Every state and the federal government have adopted laws to balance the scales of justice. Due-process victims rights--including to be informed, present, heard, and to receive restitution from the offender--were enacted. Some states amended their constitutions establishing victims rights as state law. Yet compliance has not universally occurred.

Thus, victim advocates, with support from Presidents Clinton and Bush, sought federal constitutional protection for victims. Insufficient congressional support for a federal constitutional amendment resulted in a compromise to determine if statutory victims' rights law can succeed.

For federal crime victims, the act creates strong due-process participation rights. Victims will be informed of rights to legal counsel, and victims may seek relief in both in federal trial and appellate courts. Studies will measure the act's effects. For state victims, the act authorizes federal funding to improve notification and legal assistance.

If the act fails to create justice for victims, victim advocates will have the evidence to return to Congress to again demand federal constitutional protection for victims. Members of Congress supporting statutory reform indicated that if the act proves insufficient, support exists for constitutional reform. If the act fails to guarantee compliance with federal and state victims rights, advocates will return to Congress for the promised federal constitutional reform.

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Oppose

By Jesselyn McCurdy

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For many of the bills Congress considers, the label does not fit the product. Case in point can be found in the "victims rights amendment," or VRA. At first blush, a measure guaranteeing rights to crime victims seems like a good idea. But the VRA is actually a proposed constitutional amendment with ramifications that extend far beyond ensuring fair treatment for crime victims.

A surprising range of people--from the National Network to End Domestic Violence to prosecutors, the National Sheriffs Association and top conservative columnists--oppose it.

Many of the new rights the amendment would create are at the expense of the justice sought by crime victims. The VRA would actually undermine prosecutors' abilities to convict criminals--hurting the victims the measure purports to help.

Beth Wilkinson, a prosecutor for the trial in the Oklahoma City bombing, has said, "Our prosecution could have been substantially impaired--and we might never have secured such solid convictions" had VRA been in place. Wilkinson fears the amendment might have allowed victims of the bombing to block the prosecution's plea agreement with a critical witness, who then provided damning testimony key to successfully convicting defendants Timothy McVeigh and Terry Nichols.

For Wilkinson and other prosecutors, protecting the rights of victims is important. But equal, if not more so, is the right to convict the guilty.

Congress struck a compromise this year, and instead of amending the Constitution it passed a bill to change laws governing the treatment of crime victims. It included many measures sought by supporters of the amendment, including the victim's right to be protected from the accused, right to receive advance notice of court proceedings and right to confer with prosecutors.

That Congress was able to make these changes simply by changing the law ought to end the call for a constitutional amendment once and for all.

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