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Is It A Bad Idea to Prosecute?

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This past weekend, the sister of 14-year-old suicide victim Jamey Rodemeyer went to a school dance to take her mind off of her brother's death and hang out with all of her friends. "Then," says Jamey's mother Tracy, "all of sudden a Lady Gaga song came on and they all started chanting for Jamey, all his friends and whatever. Then the bullies that put him into this situation started chanting 'You're better off dead, we're glad you're dead.'"

They sound heartless, but is pressing criminal charges against them actually a bad idea?

Today the Gay Straight Alliance network's Make It Better Project warned against early attempts to criminalize bullying nationwide:

> Criminalizing bullying is not the answer. There are proven, positive ways – from starting and supporting Gay-Straight Alliance clubs (GSAs) to intervening when slurs occur – to Make It Better. It's important now more than ever to stick to these concrete steps, and not turn to punitive, reactionary measures that cause more harm than good.

Horrible though they are, Rodemeyer's bullies are also stupid teenagers who probably don't entirely understand the gravitas of their actions. While some of their bullying could even rise to the level of criminal harassment, criminalizing bullying overall could result in over-reaching laws that punish any student who "causes emotional harm" or "creates a hostile environment"—two vague, subjective criteria that could well qualify any online insult or cafeteria put down as a criminal offense.

Also, anti-bullying laws that allow bullied kids to sue their tormentors and do-nothing school administrators could backfire. What if a bullying law allowed Lawrence King's killer Brandon McInerney to turn around and sue his school for not doing more to protect him from King's "sexual advances"? What if anti-gay bullies regularly used the law to attack LGBT-friendly teachers who "bully" religious students for speaking out against gays?

But John Aravosis from AmericaBlog disagrees with the Make It Better Project and says that GSAs aren't enough:

> Pushing for more GSA's is all well and good. But part of the problem is that in some states there are no laws covering bullying, like the state in which 14 year old Jamey Rodemeyer was bullied and recently killed himself as a result. It's all well and good to have GSAs at the school, but if my kid (had I a kid) is being repeatedly taunted by other kids telling him to kill himself, I want more than a GSA to turn to, especially if the school district isn't doing enough to help. I want the law.

Currently, only 14 states explicitly protect students from bullying based on sexual orientation and gender identity. The Safe Schools Improvement Act would go a long way towards protecting bullied students in the 36 other states, primarily by requiring teacher training, anti-bullying materials in schools, and quicker and consistent handling of bullying cases by school administrators and police.

In a school of stupid, heartless kids, it's really up to the administrators to use pre-existing conduct codes to discipline bullies and then report criminal activity to police if further action needs to be taken. Levying harsher penalties against bullies may seem like a worthwhile detterent, but it's meaningless if the bullying itself is still not being reported and dealt with by those who know better.

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