

OPINION

The real desecration | Ban on flag-burning a betrayal of U.S. values

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In a 1994 interview with the New York Post editorial board, Sen. Daniel Patrick Moynihan -- infuriated over what he considered the unseriousness of the Clinton administration's domestic agenda -- denounced it as "boob bait for the Bubbas." At some point before the Fourth of July, the Senate will take up the ultimate "boob bait" issue: a proposal to amend the Constitution to prohibit the "physical desecration" of the American flag.

The amendment has already passed the House with more than the necessary two-thirds vote. Sixty-six senators reportedly have committed to voting for the measure, leaving it one vote short of passage. If approved, it would then go to the 50 states, where it would take effect upon approval of three-quarters (38) of the legislatures.

That the proposal has come this far is stunning testament to politicians' faith in cheap patriotic theatrics.

The amendment is pointless. This isn't the Vietnam era. There is no epidemic of flag-burning. Banning flag desecration would only encourage it by making it a more high-profile means of protesting anything under the sun.

The amendment is an invitation to endless quarreling, in court and out, over what qualifies as desecration -- that is, as not sacred. You can bet some judges (and juries) would interpret this in absurdly broad fashion. (Cartoonists, beware -- also real estate agents who pass out cheap 20-star flags on sticks on the Fourth.)

But most of all, the amendment is a betrayal of the most important value that Old Glory symbolizes: individual freedom. "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable," Justice William J. Brennan Jr. wrote in 1989. "We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this emblem represents."

It is baffling that 66 senators -- including California's normally level-headed Dianne Feinstein -- cannot grasp Brennan's point: The flag doesn't symbolize blind loyalty. It symbolizes freedom. For the good of the nation, let's hope the Gang of 66 can't find another member for their ignorant club.

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