



Lawrence v. Texas

539 U.S. 558 (2003)

Country: United States

Region: Americas

Year: 2003

Court: Supreme Court

Health Topics: Sexual and reproductive health

Human Rights: Freedom from discrimination, Right to due process/fair trial, Right to liberty and security of person, Right to privacy

Facts

Police officers entered a private residence in response to a report of a disturbance and came upon two men engaged in a sexual act. The men were arrested for and charged with violating a Texas state criminal law that prohibited "deviate sexual intercourse [defined as oral or anal sex] with another individual of the same sex."

The Defendants contended that the statute was unconstitutional under the Fourteenth Amendment to the US Constitution. The trial judge considered and rejected the challenge to the provision based on the Equal Protection Clause. The Court of Appeal rejected the appeal based on both the Due Process and Equal Protection Clauses. The Defendants appealed to the Supreme Court.

Decision and Reasoning

The Court held that the criminalization of private, consensual sexual conduct between adult men violated the Due Process Clause of the Fourteenth Amendment to the US Constitution.

In doing so, it overruled its earlier decision in *Bowers v. Hardwick*, 478 U.S. 186 (1986), which upheld a similar state law prohibiting sodomy. It considered that the references to the uniform criminalization of homosexuality and to "Judeo Christian moral and ethical standards" in the *Bowers* decision had ignored a number of important contrary precedents, including the *Dudgeon* case before the European Court of Human Rights and the decriminalization of homosexuality in the United Kingdom. The Court further noted that since the *Bowers* decision had been rendered, a number of US states had repealed or invalidated similar laws prohibiting sodomy, and the majority had not enforced them with regard to consensual private conduct.

The Court held that individual decisions by adults concerning the intimacies of their physical relationship were a form of liberty protected by substantive due process under the Fourteenth Amendment to the Constitution. It accepted Justice Stevens' dissenting opinion in *Bowers*, which stated that history and tradition regarding morality was not sufficient reason to uphold otherwise unconstitutional laws. It further held that the Texas statute furthered no legitimate state interest justifying interference with that liberty interest.

Justice O'Connor issued a concurring opinion based on the Equal Protection Clause of the Fourteenth Amendment, stating that moral disapproval of a group was not a legitimate basis for justifying discrimination against that group. Her Honour also stated that while the Texas statute ostensibly targeted conduct and not homosexual persons, because the conduct defined the group, it in fact targeted the group as well.

Justices Scalia and Thomas dissented on the basis that the Due Process clause did not protect a general right to liberty, and that the State could legitimately pass laws on the basis of moral choices.

Decision Excerpts

"If protected conduct is made criminal and the law which does so remains unexamined for its substantive validity, its stigma might remain even if it were not enforceable as drawn for equal protection reasons. When homosexual conduct is made criminal by the law of the State, that declaration in and of itself is an invitation to subject homosexual persons to discrimination both in the public and in the private spheres. The central holding of *Bowers* has been brought in question by this case, and it should be addressed. Its continuance as precedent demeans the lives of homosexual persons." p.6.

"The case does involve two adults who, with full and mutual consent from each other, engaged in sexual practices common to a homosexual lifestyle. The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private sexual conduct a crime. Their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government. ... The Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual." p. 7.

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