

Do privacy rights extend to sexual orientation



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Do privacy rights extend to sexual orientation? Privacy rights have taken added significance in urban centers across the world. As societies become more urbanized and proximity between strangers increases, instances of breach in privacy is bound to grow, leading to expansion in laws relating to privacy. In highly advanced societies like the United States, the rate of urbanization is very high, which means that privacy laws are lagging behind constantly evolving modes of social organization. It is no coincidence that phenomenon such as homosexuality are most openly discussed and practiced in highly urbanized regions like New England and the West Coast. Here, homosexuals are not ostracized and discriminated against. And the disclosure of this personal information to the other party is of little significance. (Habermas, 1989) One could argue that threats to privacy rights of homosexuals come from two sources. First is due to social stigma and taboo, as is the case in conservative/rustic regions. Second is government mandated laws that prohibit gay marriage and gay sexual activities (although some radical new developments are taking place in this area in recent years - the decision by a Massachusetts court allowing gay marriage was unprecedented). In both cases, the society and the government can be seen as intruding into what is essentially a private matter between two adults. Hence, privacy rights can be divided into positive rights. Positive privacy rights would translate as legitimately claiming the status and benefits accorded to a married couple irrespective of their orientation. Negative privacy rights, on the other hand, empowers individuals to withhold details of their sexual orientation from employers, landlords and government if it would prevent possible discrimination. (Thomson, 1995, p. 40) Considering that the American Constitution was

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written at a time when homosexuality was not openly spoken about, there were no explicit provisions regarding gay privacy. And as cases such as *Bowers v. Hardwick* (1986) and *Romer v. Evans* (1996) show, privacy rights at places conflict with other rights and privileges. And so far, the resolutions for these conflicts have proved unfavorable to homosexuals: "The Court first considered the matter in the 1986 case of *Bowers v Hardwick*, a challenge to a Georgia law authorizing criminal penalties for persons found guilty of sodomy. Although the Georgia law applied both to heterosexual and homosexual sodomy, the Supreme Court chose to consider only the constitutionality of applying the law to homosexual sodomy.... In 1996, the Supreme Court again considered gay rights issues in *Romer v Evans*, a challenge to a provision in the Colorado Constitution (adopted by a 54% to 46% vote) that prohibited the state or its subdivisions from adopting any laws that gave preferred or protected status to homosexuals. Justice Kennedy's opinion concluded Amendment 2 was "born of animosity" toward gays." (The Gay Rights Controversy, 2011) It is probably a reflection of poorly developed privacy rights in America that paparazzi intrusions have gone unabated. Some celebrities are tolerant of paparazzi due to the free publicity they get, but most others are stalked, watched and harassed. What is coveted the most by paparazzi are the private lives of celebrities, including their intimate moments with their sexual partners. But given the rampant and uncontrolled prevalence of this phenomenon, one can only conclude that privacy rights (as in the context of interpersonal relationships) are yet to cover all areas. Overall, while privacy rights are gradually being extended to people of all sexual orientations, there is a gap between the cultural zeitgeist and the law. Works Cited: Exploring Constitutional Conflicts, The Gay Rights <https://assignbuster.com/do-privacy-rights-extend-to-sexual-orientation/>

Controversy, retrieved from on 18th January, 2011 Judith Jarvis Thomson, "The Right to Privacy," in Michael J. Gorr and Sterling Harwood, eds., *Crime and Punishment: Philosophic Explorations* (Belmont, CA: Wadsworth Publishing Co., 2000, formerly Jones and Bartlett Publishers, 1995), 552 pages, pp. 34-46. Habermas, Jurgen; Thomas Burger trans., *Frederic Lawrence Ass. (1989). The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. Massachusetts: MIT Press.