

Sodomy produced from the 4th amendment's statement of

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Sodomy laws are laws that specify certain sexual acts as a crime. The exact acts are not obvious in the written law but courts understand this to be anything considered “immoral” or “strange.” Legal punishments correlating with sodomy included fines, sentences in prison for life, and many times both in some states such as Illinois in 1827 when rejecting such “unusual” acts. During the 1960s, every state had an anti-sodomy law until the American Law Institute’s Model Penal Code (completed in 1962, a development devised as a way to organize criminal laws made by the states and has convinced a large majority of states to modify their laws) fought for the repeal of sodomoy laws for it violated adult, private, consensual acts. In 1965, the supreme court case *Griswold v. Connecticut* overrode a law denying the use of contraceptives by married couples. The court realized that couples had a right to privacy.

This concept was produced from the 4th Amendment’s statement of protecting private homes from searches without a warrant, the 14th Amendment’s promise to due process of law, and the guarantee that rights which are not specified as stated in the Constitution are “retained by the people,” stated in the 9th Amendment. In 2003, during the decision of *Lawrence v. Texas*, ten states (Alabama, Idaho, Florida, Louisiana, Mississippi, North and South Carolina, Michigan, Utah and Virginia) still barred sodomy no matter one’s sexual identity.

States such as Texas, Oklahoma, Missouri, and Kansas forbid the engagement of anal and oral sex as acted upon by same-sex couples.

However, the sodomy laws are discriminatory for the government should not intervene with how one behaves intimately in their personal life because it is <https://assignbuster.com/sodomy-produced-from-the-4th-amendments-statement-of/>

the defying of their private rights and neglects proposals from the Constitution. The unjustified disregarding of someone's right for their confidential status and conduct derives from the response to a reported weapons disturbance in a private residence of John Lawrence, a medical technologist. It was made by his jealous partner, Eubanks, and Houston police charged into the apartment and apparently saw Lawrence with another man, Tyron Garner, caught in a private sexual act.

Officer Quinn, part of the Houston police, and a second policeman saw them engaged in oral sex while another pair of officers did not report to seeing anything unusual. At first, Lawrence continuously challenged the police for entering his home without a warrant. However, Quinn argued that he had discretionary authority (express powers that may not be granted directly by law) to charge Lawrence and Garner for multiple offenses. When considering whether to charge them with acting upon anti-sodomy laws as gay men, it was required that he get an Assistant District Attorney to check the statutes to confirm the sexual activities permitted inside of a home.

It was asserted that Texas' statute against sodomy, or the "Homosexual Conduct" law made it a misdemeanor if one was to "engage in deviate sexual intercourse with another individual of the same sex," adopted in 1973 when Texas modified its criminal code to end heterosexual anal and oral sex. As a result, Quinn arrested Lawrence and Garner for taking part in "deviate sex." While spending a night in jail, Lawrence and Garner were pleaded innocent to charges of the "Homosexual Conduct." Eubanks, Lawrence's

former partner was sentenced to 30 days in jail for charges of filing a false police report.

Furthermore, we recognize how the biased actions disregard parts of the Constitution during the case. After their release, the petitioners exercised their right to a trial de novo (new trial) in Harris County Criminal Court. They disputed the statute, "Homosexual Conduct", as an infringement of the Equal Protection Clause, a section of the 14th Amendment declaring that states must not deny any person, "the equal protection of the laws".

However, these arguments were refused while Lawrence and Garner entered nolo contendere (a plea in which a defendant does not accept or deny the responsibilities of a charge but obtains punishment. The Court of Appeals of the Texas 14th District made contemplations over the plaintiffs' disputes over the Equal Protection and Due Process Clauses of the 14th Amendment. The Due Process Clause has a role in protecting people from the rejection of life, liberty, or property as made by the government. During these reviews, the Supreme Court granted certiorari (a writ in which a higher court could examine a lower court) and considered three questions: 1) Whether Petitioners' criminal convictions under the Texas "Homosexual Conduct" law—which criminalizes sexual intimacy by same-sex couples, but not identical behavior by different-sex couples—violate the Fourteenth Amendment guarantee of equal protection of laws, 2) Whether Petitioners' criminal convictions for adult consensual sexual intimacy in the home violate their vital interests in liberty and privacy protected by the Due Process Clause of the Fourteenth Amendment and 3) Whether *Bowers v. Hardwick* (1986), a court case that was nullified in 2003 with a 5-4 ruling of the

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constitutionality of a Georgia law against sodomy in private, consensual adult acts, should be overruled?" On the other hand, Justices Thomas filed as a dissent along with Justices Scalia and Rehnquist.

Justice Thomas wrote in his two paragraph dissent that " he could find ' no general right of privacy' or relevant liberty in the Constitution." To refute, the 4th Amendment clearly states " The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." Officer Quinn and his men did not have a warrant when barging into Lawrence's home. Also, not only are they ignoring their home privacy rights, but have put Lawrence and Garner in a predicament in which they do not deserve to be solely for disregarding their personal rights. Moreover, Scalia joined as a dissent because he objected to the court's decision of going back to revise Bowers' case.

He also reasoned that in many of the States, what the Court calls " discrimination" against those who engage in homosexual acts, is perfectly legal, that it's " not obviously ' mainstream'. Thus, Scalia excuses the intolerance against homosexuals for it is not of the norm and majority of the country were not accepting of this sexuality. In summation, a 6-3 decision that was delivered by Justice Anthony Kennedy, answered to the questions expressed by the Supreme Court, announcing that the Texas statute, the " Homosexual Conduct", which made same-sex couples participating in certain intimate acts illegal, offended the Due Process and Equal Protection Clauses and thus deemed unconstitutional. Although doubtful over the decisions made over Bowers v. Hardwick and whether to

override it, the Court rather interpreted this as whether Lawrence and Garner, as adults, were permitted to partake in the private behavior while under the protection of the Due Process Clause.

Justice Kennedy stated, “ Their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government.” He further expounded that the insulting statute gave no justification as to intruding one’s personal life. As a result, the court, which included Justices Stevens, O’Connor, Kennedy, Souter, Ginsberg, and Breyer as the concurring team, repealed the case. “ Gay rights are human rights” (Hillary Clinton).