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TIN (AP) — Some oppo
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ns," Flynn said. "We
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aring had been progress
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Tuesday, Rep. Ruth
Clendon was joined by
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, D-San Antonio. "This
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ouse Committee on
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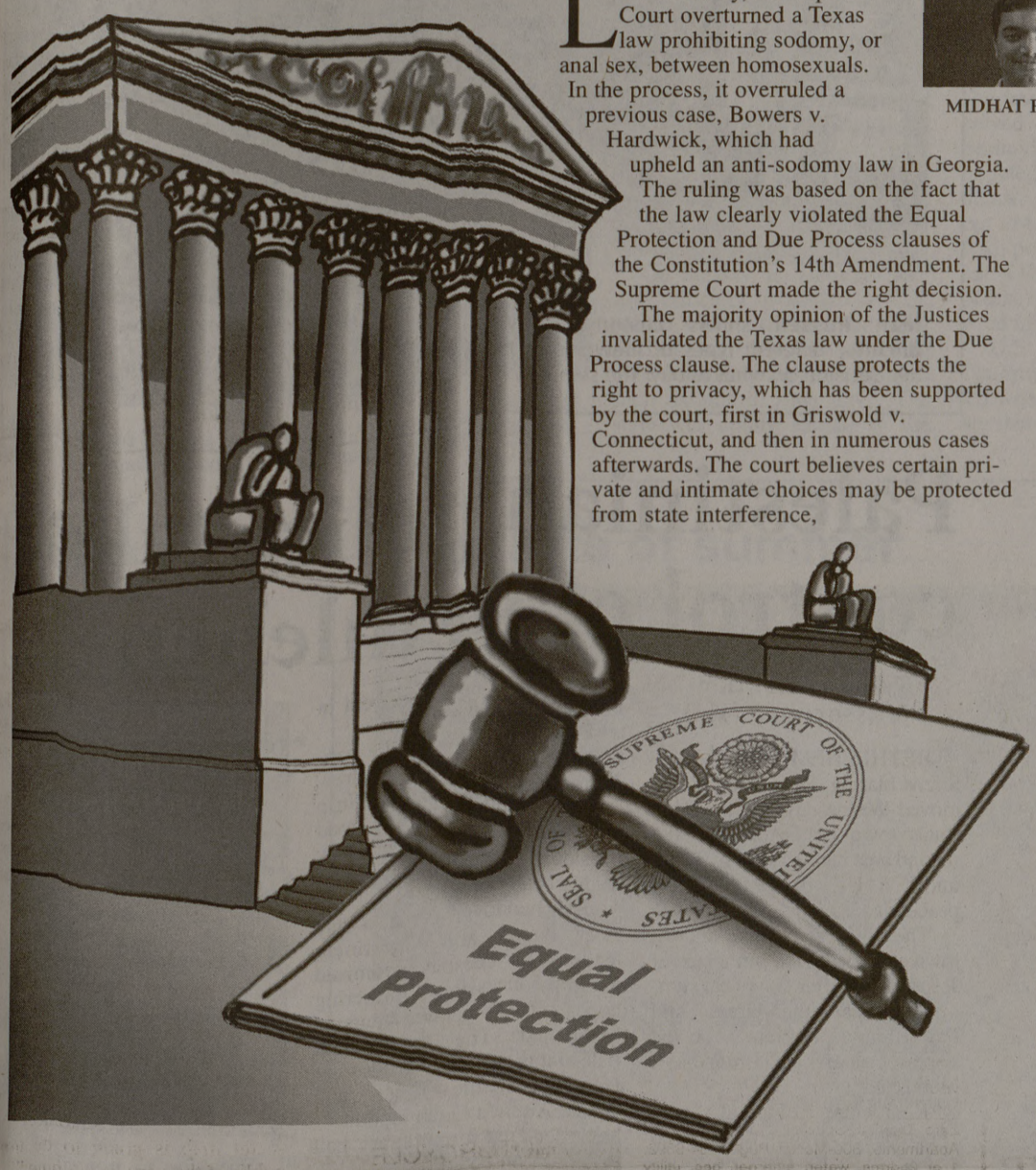
OPINION

LEGALIZING SODOMY

Supreme Court ruling striking down anti-sodomy laws a victory for privacy




MIDHAT FAROOQI

Last Thursday, the Supreme Court overturned a Texas law prohibiting sodomy, or anal sex, between homosexuals. In the process, it overruled a previous case, Bowers v. Hardwick, which had upheld an anti-sodomy law in Georgia. The ruling was based on the fact that the law clearly violated the Equal Protection and Due Process clauses of the Constitution's 14th Amendment. The Supreme Court made the right decision.

The majority opinion of the Justices invalidated the Texas law under the Due Process clause. The clause protects the right to privacy, which has been supported by the court, first in Griswold v. Connecticut, and then in numerous cases afterwards. The court believes certain private and intimate choices may be protected from state interference, such as practicing birth control. In this case, it upheld the right of any two individuals of adult age to have consensual sex in the privacy of their home.

Justice Sandra Day O'Connor wrote that the Texas law was unconstitutional under the Equal Protection clause as well. She argued that this clause prohibited states from creating laws discriminating against a certain class of people unless the state could show a "rational basis" and a "legitimate government purpose" behind the law.

But the Texas law was discriminatory: it applied only to homosexuals. Heterosexuals could freely practice sodomy. Thus, the law did not criminalize the practice itself; it targeted a specific group and was meant to criminalize homosexuality. Regardless of whether a person believes homosexuality to be morally wrong, such discrimination is not constitutional.

States, too, cannot write laws based on morality, because the United States is a secular country. People practice numerous religions, each with its unique moral code. In banning a given practice, which morality code should the state follow? A Christian one? Why not a Muslim one? Why not the Buddhist code?

If a state wishes to abide by the moral code of the Christian majority, it may infringe upon the right of people who follow other religions. Thus, to make a law, the state cannot rely only on morality. Instead, it must show a "rational basis" and a "legitimate government purpose" behind the law. For example, a state could still ban human sacrifice, even if a religion found it morally acceptable. In this case, the state has a basis — to protect an individual's right to live — and a purpose: to maintain order in the society.

The Texas law, however, could not pass this "state interest test." There was no rational basis for the state to keep homosexuals from engaging in an "immoral" practice while allowing heterosexuals to do so. Texas could not provide a compelling legal interest in banning two adults from having consensual sex in their own home.

Since the decision, various individuals and groups have lamented the so-called fall of morality in America. They point out that this ruling will pave the way to legalizing adultery, incest and bestiality in the privacy of one's home — the "slippery slope" argument. But this argument goes both ways, and is also incorrect.

The slippery slope in this situation does not exist. The current ruling will not lead to the legalization of other sexual practices since the state does have a rational basis and legitimate purpose for the laws banning them. Adultery involves a violation of the state-sanctioned legal contract of marriage. Bestiality necessitates cruelty to animals and any person will have a difficult time arguing that the animal was of adult age and gave consent. Incest is banned since the offspring from such a union are harmed — they have a much greater chance of developing a genetic disease or passing it on to their children. Hemophilia, for instance, was rampant in the Russian royal family due to inbreeding among its rulers.

There is a slippery slope on the other side, too. If a state criminalizes sodomy, it can criminalize interracial sex and marriage as well. Not so long ago, this was considered immoral too. Laws banning interracial marriages were in existence until 1967, when the Supreme Court overturned such a Virginia law. In that case, suitably titled Loving v. Virginia, the law was overturned on the Equal Protection and Due Process clauses of the 14th Amendment. Sound familiar?

The Supreme Court made the right decision. The Texas anti-sodomy law was unconstitutional and unfairly discriminated against homosexuals.

Midhat Farooqi is a senior genetics major.
Graphic by Radhika Thirunarayanan.

Reservists getting what they're paid for

Despite USA Today article, U.S. reservists aren't mistreated or underpaid


MIKE WALTERS

On June 9, a USA Today headline read "Reservists Pay a Steep Price for Service." Without a doubt, many people read that and wondered what anybody could have to say about the price our servicemen and women pay for defending American freedom — they risk their lives and put forth mental and physical strength to maintain the most advanced military in the history of the world. Sadly, the article in question was not written in such a spirit.

USA Today seems to believe that military reservists are mistreated, regardless of the overwhelming evidence to the contrary. The article is filled with complaints from soldiers and their families about being called up too often and for too long, in addition to moaning about having to put their lives on hold while on active duty.

Such "reporting" leads you to believe that there is a chain-gang wearing desert fatigues in Iraq right now who have been duped into thinking they could sign up for a military commitment without having to fulfill their obligation. Giving them such little credit is nothing less than a cheap insult to people who fight and die for those who spit on them in such a manner.

Reservists voluntarily adopt a unique lifestyle, choosing to maintain a normal life with work, friends and family as any other citizen does, but also working as a part-time soldier. He agrees to attend basic and advanced training like a full-time soldier, but after that, works only one weekend a month, and typically two weeks during the summer. However, as part of his contract the part-time soldier must leave for full-time active duty at the military's discretion.

"Because Reservists often have commitments to two jobs," the Air Force Reserve Web site tells us, "it is important that you fully understand both the benefits and the responsibilities involved ... This is a 24-hour-a-day commitment, and one that requires many personal sacrifices ... There is no room for personal agendas that interfere with the needs of the U.S. Air Force or the interests of our government."

Joining the military is one of the few cases where the government makes no bones about taking away peoples' rights — soldiers are obligated to wear their hair a certain way, wear their appropriate uniform properly and to live and go where they are told to live and go. The Air Force is mistaken to call these things "sacrifices," and naming these concessions as such are a disdainful affront to our service members. They serve proudly in the defense of their country and the cause of freedom all across the world. As is evident in the current war against terrorism, reservists are very aware of the toll such service enacts upon them.

> *"Joining the military is one of the few cases where the government makes no bones about taking away peoples' rights..."*

We live in a capitalist society, and such service is not without compensation. This is true not only for the full-time soldier, but for the reservist as well. According to the Department of Defense, a budget of $30.7 billion has been planned for the 2003 fiscal year. In addition to their regular pay, the government spends this tax money on benefits such as money for college, student loan repayment and tax-free stores on bases, as well as life and medical insurance. When called into active duty, these soldiers enjoy the expanded benefits of a full-time soldier. In addition, the Uniformed Services Employment and Reemployment Rights Act ensures that, while away, a reservist's job, pay and seniority remain intact. Reservists are hardly mistreated.

The presentation of our reservists by USA Today is suspect, and likely only reflects the feelings of a small minority of disgruntled active-duty reservists and their families. Perhaps they simply haven't noticed the checks and benefits the government sends them, and maybe they forgot about the agreement they signed before shipping off to months of basic and advanced training. The fact of the matter is that there's no such thing as a free lunch. These "weekend warriors" cannot expect to reap the benefits our country gives them and be able to skip through their obligation. During this time of war, our leaders have called upon all aspects of the military to step up, exacting from our soldiers the results of time, money and effort spent in training. For those few who have forgotten that, perhaps they should think more carefully before signing multi-year contracts.

Mike Walters is a junior psychology major.

MAIL CALL

A&M employees denied a grandfather clause

In response to several news and opinion articles:

I certainly hope those eight people being laid off don't get nailed by lack of a grandfather clause in the new law SB1370. Pity the poor soul who started working for Texas A&M at age 18 and has 36 years of service. He'll have to wait another 11 years to get retiree health insurance. Meanwhile his colleague who only worked five years and is 55 will get retiree health benefits right away.

By the way, Gov. Perry signed the law on June 18 according to the SB1370 Web page, www.capitol.state.tx.us, even though your article said it hadn't been signed yet. This was less than two weeks after The Eagle and KBTX got wind of the story and even then the implications like the lack of a grandfather clause weren't evident or being reported. Where were Steve Ogden and Fred Brown when all of this was going on? An e-mail from Brown responding to a message I'd sent him stated that the author of the bill didn't want any grandfathering put in. So I assume Brown works for Duncan and not for his constituents or the people of Texas. And what kind of an Aggie is Perry?

An interesting thing about the history of how this legislation was created shows that there were hearings on May 5 and May 21 where witnesses testified for and against it. Dozens of people testified against it. Only a few testified for it.

But the lack of representation is really going to hurt because t.u. had a grandfathering clause built in where A&M didn't. Besides the 55-5 rule and the 80 rule, they also had a 30 rule — meaning people who had 30 years of service would also be eligible. So there were no witnesses to point out that A&M got burned. Where were our political representatives, student leaders, local media and administration when all this was going on? Is this backdoor politics run amok?

Sure the state budget is in trouble, but should a small segment of A&M employees and graduate students bear the brunt of sacrifice especially when their implied contract at time of employment gave them these benefits? Other state agencies in the past who modified retirement benefits added a 3-3 rule (adding three years to years of service and 3 years to employee age so older, long-term employees wouldn't lose everything promised).

The A&M lawyers did write an Opinion Request on June 23 to the attorney general, but it still hasn't appeared on their Web site so there may be little time for public comment. But even then, the A&M lawyers don't address the issue of lack of grandfathering for people who get laid off after Sept. 1 who weren't 55 at the time. The attorney general opinion can only consider points of law to make sure that SB1370 is consistent with other laws. It can't address political issues or unintended consequences. So we'll probably need to go back to our politicians to get this fixed. And it needs to be done fast.

John Eastlund
19 year A&M employee

Zero-tolerance policy defies federal legislation

In response to a July 1 news article:

The idea that noise ordinance violations will be met with a zero-tolerance policy is absurd and unfair.

Texas state law specifically defines an unlawful level of noise, but members of our local Bryan law enforcement have deemed themselves above the state in determining violations based on judgment calls.

A zero-tolerance policy will lead to convictions simply because of a neighbor's phone call, and a police officer is not going to consider the details of an unnecessary complaint. What the police have failed to realize is that it is possible to offend someone without breaking the law. For this reason, we should be courteous as Aggies, and be considerate of our neighbors, but recognize that we have rights as neighbors as well.

A decibel meter may not be one hundred percent accurate, but at least it provides some standard for comparison. Isn't that why they use radar guns for traffic?

Jonathan Demma
Class of 2003

The Battalion has learned that some people may have been offended by Wednesday's cartoon. However, it was not The Battalion's intention to offend or act maliciously in running it. Rather, it was meant as a satire of the Supreme Court decision legalizing Affirmative Action. The Battalion apologizes for any undue distress this cartoon may have caused.