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High Court's Term Ends; Sodomy Ruling Fuels 'the Culture War'; Gays celebrate the landmark decision as a 'day of liberation.' Christian groups fear the decree could lead to same-sex marriage.

By Mitchell Landsberg and John M. Glionna, Times Staff Writers

The Supreme Court's decision Thursday to strike down Texas' criminal sodomy law electrified both sides in what Justice Antonin Scalia called "the culture war," with advocates for gay civil rights and religious fundamentalism agreeing that the ruling was a watershed that could ultimately knock down barriers to same-sex marriage.

The decision prompted celebrations in heavily gay and lesbian communities such as West Hollywood, where Mayor Jeffrey Prang called it "a landmark" that "essentially said what we have believed all along -- that the consensual relations between people in privacy is not the business of the government."

"It is monumental," agreed Jon Davidson, a Los Angeles-based attorney for the Lambda Legal Defense and Education Fund, which represented the two Houston men at the center of the Supreme Court case. "There were tears running down my face as I was reading the decision."

It alarmed and angered advocates of Christian-based "family values" for whom homosexuality is abhorrent. "We think this is the start of the court putting San Francisco values on the rest of the country," said Peter LaBarbera, senior policy analyst with the Culture and Family Institute, which advocates public policy based on biblical principles.

"We believe the court one day could use this same rationale to ... open and legalize so-called [same-sex] marriage," LaBarbera added.

In a decision written by Justice Anthony M. Kennedy, the court ruled that the Texas law prohibiting homosexual sex was an unconstitutional violation of the right to privacy. The ruling was expected to apply to sodomy laws in 12 other states, including nine that ban oral or anal sex between heterosexual as well as homosexual couples.

In San Francisco, a city with a powerful gay voting bloc, many residents rejoiced at news of the Supreme Court ruling.

"It's about time! It's about time!" exclaimed Matthew Wright, a student who was waiting for a bus in the city's Castro District. "Hello! People in Washington and everywhere else! What I do in my bedroom ain't nobody's business, period. What this ruling does is bring us up to speed with the rest of Western civilization. We're just a bit slow in the United States, that's all."

Legal scholars agreed that the ruling is a huge step forward for gay civil rights.

"This is a very powerful statement by the court about privacy rights, a profound statement that it's none of the government's business who we sleep with," said Erwin Chemerinsky, a USC professor of constitutional law. "In California and elsewhere, there are countless ways laws draw distinctions between straights on one hand and gays on the other -- in areas such as marriage, adoption, custody matters and employment. This is the strongest statement the court can give calling into doubt those lines."

Pamela Karlan, a Stanford University law professor, said the repercussions of the ruling might not be immediately apparent to the average American household. "Does it change what happens in the day-to-day lives of straight people? I'm not sure it does," she said. "But it does change the world in important ways by sending a powerful message that all adults should have same right in the nature of their intimate lives."

Another constitutional law scholar, Eugene Volokh of UCLA, argued that the ruling could be stretched to apply to a range of proscribed sexual behavior, including polygamy and incest. "This isn't as much about homosexual rights as it is sexual rights in general," Volokh said.

Opposition to the court's decision was centered among Christian fundamentalists, who believe sodomy laws uphold society's interest in maintaining moral order, and who also argue that the transmission of HIV gives society an interest in prohibiting gay sex.

"This is one of the worst decisions the court has ever made, in my opinion," said Scott Lively, an attorney in the Sacramento suburb of Citrus Heights and director of the American Family Assn. California. His group is affiliated with a national organization headed by the Rev. Donald Wildmon.

"It is an exercise in judicial activism that puts a stamp of approval on anything-goes sexuality," Lively said. "One of the responsibilities for the government is to set the standard of what should be approved and disapproved by society. They are essentially saying the states should not be able to regulate sexual conduct at all, except for minors, nonconsensual sexual activity and things like that."

"Once again the government has invented a right where no other existed before," said Richard Lessner, senior analyst for the Family Research Council. "Now [laws against] bigamy, incest, polygamy, bestiality, prostitution and anything else you can think of ... are now going to come under attack."

Davidson, the Lambda attorney, said he did not believe the ruling could be so broadly interpreted. "That's just false," he said. For instance, he said, the state has an interest in preventing incest because it has genetic consequences. No such state interest can be argued in the case of sex between consenting gay men or women, he said.

However, Davidson agreed with many opponents of the ruling who said it could pave the way to same-sex marriage. "That is certainly our view, and I think at some point there will certainly be a case that tests that," he said.

Sodomy laws, according to **Bernadette Brooten**, a professor of Christian studies at Brandeis University, date to the early Christian era in Europe and are deeply rooted in religion. In fact, she said, several of the state laws affected by the high court's ruling used biblical language taken directly from the Book of Leviticus and Paul's Letter to the Romans.

"So although this is not a church-state issue in the narrowest sense, it is a victory for the separation of church and state," Brooten said. By holding that the individual's right to privacy trumps the public interest in enforcing standards of behavior, she added, "the court has moved beyond ... a Christian shaping of laws concerning sexuality."

Judith Stacey, a professor of sociology and gender studies at USC, said sodomy laws are also holdovers from a time when an agrarian society put a premium on procreation, when "creating the next set of workers is what's important in a marriage."

They were not aimed primarily at prohibiting homosexuality, as some are now, she said.

Back where the case started, in Houston, a bustling area west of downtown called the Montrose District includes a thriving gay community. There, gay leaders and attorneys behind the case were similarly jubilant. As in at least 35 other cities across the country, they quickly pieced together plans for a rally supporting equal rights for gays.

Local authorities said John Geddes Lawrence and Tyron Garner are the only people in Texas who have ever been charged under the statute. But Houston attorney Mitchell Katine, who represented the two men behind the case since its inception, said the impact of the Supreme Court ruling is far broader than those two solitary arrests. He pointed out, for example, that gay candidates for public office in Texas have been painted as criminals by their opponents because of the statute.

"This can no longer be used as a tool to attack gays and lesbians in family law, housing or employment law," he said. Davidson, the Lambda attorney in Los Angeles, called it "a day of liberation."

"I mean," he said, struggling for words, "I must tell you, I kind of -- in reading the decision -- it kind of felt like we'd been given a rose, with many layers, each one smelling more sweet. Because the opinion is very deep, in terms of the way in which it discusses the rights at stake."

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Glionna reported from San Francisco and Landsberg from Los Angeles. Times staff writers Scott Gold in Houston, Jennifer Mena in Orange County, Katie Flynn and Joy Woodson in Los Angeles, and researchers Anna Virtue in Miami, Lynn Marshall in Seattle and Lynette Ferdinand in New York contributed to this report.

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