

Jindal vows to secure death sentence for child rape

Louisiana's Governor Bobby Jindal has said he will seek to enact laws that would invalidate a US Supreme Court ruling which struck down the death penalty for raping a child.

'One thing is clear,' said Republican Jindal, 'the five members of the court who issued the opinion do not share the same standards of decency as the people of Louisiana.'

In a 5-4 decision Wednesday, the top US court ruled as unconstitutional a Louisiana law that permits the death penalty for people convicted of raping children younger than 12. Louisiana had the only two inmates in the country facing death for raping a child.

Besides Jindal, the first Indian American chief executive of a US state, the Republican and Democratic presidential candidates, John McCain and Barack Obama, have also opposed the ruling.

McCain said it was 'profoundly disturbing' that 'there is a judge anywhere in America, who does not believe that the rape of a child represents the most heinous of crimes, which is deserving of most serious of punishments.'

Disagreeing with the Supreme Court's decision, Obama said the death penalty should be applied in very narrow circumstances for the most egregious of crimes but 'states have the right to consider for capital punishment.'

'I think that the rape of a small child, 6 or 8 years old, is a heinous crime and if a state makes a decision that under narrow, limited, well-defined circumstances the death penalty is at least potentially applicable, that does not violate our Constitution.'

Legal analysts said Jindal's pledge to keep the death penalty by amending state law may be designed to win him political credit but stands little chance of becoming reality.

'I don't know how they're going to do that,' Ira C. Lupu, George Washington University Law School professor of constitutional law, was quoted as saying by the Washington Times.

'The state doesn't have the authority to override the Supreme Court decisions that are based on interpretations of the federal Constitution. As long as this ruling today doesn't get overturned, they'll never be able to execute someone for anything other than murder.'

Supreme Court Justice Anthony M. Kennedy, writing for the majority, said Louisiana's law violates the Eighth Amendment's protection against cruel and unusual punishment.

The Eighth Amendment 'requires that resort to capital punishment be restrained, limited in its instances of application and reserved for the worst of crimes, those that, in the case of crimes against individuals, take the victim's life,' wrote Justice Kennedy.

Writing for the dissent, Justice Samuel A. Alito Jr. argued that child-rape death penalty laws should be allowed if they reflect society's 'evolving' standards of decency.

'The harm that is caused to the victims and to society at large by the worst child rapists is grave. ... It is the judgment of the Louisiana lawmakers and those in an increasing number of other states that these harms justify the death penalty,' wrote Justice Alito, who was joined by Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas.

The Louisiana law at issue in *Kennedy v. Louisiana* authorised the death penalty for Patrick Kennedy, who was convicted of raping his eight-year-old stepdaughter.

Attorneys for the state of Louisiana argued that the death penalty is a deterrent to sexual assaults on children. Since 1993, five other states - Georgia, Montana, Oklahoma, South Carolina and Texas - have enacted laws allowing the death penalty for raping a child.

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