

# Free essay about bill of rights

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The Bill of Rights was included in the constitution in 1791. The attainment of independence in 1776 led to the drafting of the first constitution. The bill of rights was absent as part of the Constitution as it was opposed by Federalists who deemed it unnecessary (Leonard Levy 50). The Antifederalists opposed the Constitution. The Bill of Rights were the idea of George Mason and were drafted through the efforts of James Madison. To achieve ratification of the Constitution in some of the states, it was necessary to include the Bill of Rights. The amendments were drafted and submitted to the states. Initially, only nine ratified them, which was short of the required number. The Bill of Rights became part of the Constitution upon ratification by Virginia in 1791. In the case of Barron V. Baltimore, the court's original ruling by Chief Justice John Marshall was that the state did not have to compensate Barron (Joseph & John 138). The ruling was made because the amendments applied to the actions of the federal government and not the actions of the state. Initially, the amendments were included in the constitution to protect the citizens against a strong and central government. Although the state had damaged the wharft of Mr. Barron, the Fifth Amendment could not protect him because it did not bind the legislation of states such as the city of Baltimore.

The incorporation theory is the application of the federal protections in the Bill of Rights to the states as an act of the U. S. Supreme Court. The Supreme Court does make the application using the Fourteenth Amendment. The incorporation doctrine has seen the American courts apply portions of the U. S. Bill of Rights to the states. The incorporation theory is based on the interpretation of the Due Process Clause of the Fourteenth Amendment, which made portions of the Bill of Rights enforceable against state

governments.

The court's implemented incorporation of the Bill of Rights selectively, not through nationalization (Arnold 3). The selective incorporation was seen in that the justices did not declare the entire document of the Bill of Rights transferable to the states. The courts, therefore, pursued the incorporation of each expressed right individually. The incorporation theory has been practiced since 1897 all through the 1960s. Through court cases and laws, the Bill of Rights has been expanded to be applied to the state governments from the previous application of just the federal government. Incorporation has seen some of the rights apply to the states while others are still not incorporated. For example, the Second Amendment has not been incorporated. Incorporation of an Amendment begins when the citizens present a case to the state that includes the need for incorporation.

My perspective on incorporation is that the courts have not the right decision in interpreting the Due Process Clause. Selective incorporation that is presently the case means that individual liberties that are expressed in the Bill of Rights are limited. I support complete nationalization such that the entire Bill of Rights is made enforceable against the state without exceptions. If the Amendments were good enough to be enforced against the federal government, then they should be good enough to be enforced against the state government. Selective incorporation means that an individual may be allowed by the Federal Government to do something, but the state government restricts it, in the end it is just as if the right did not exist at all. For example, the Federal Government cannot infringe the right to keep and bear Arms but some state governments can infringe on the right.

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