

Introduction the
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Introduction

A constitutional right refers to the freedom that a given constitution guarantees its citizens and cannot be denied at any given time. For instance, the US constitution guarantees individuals accused of committing crimes protection. This is well articulated in the fourth, fifth and sixth amendments. These are (constitutional rights) individual liberties that restrict any government from interfering with its people's freedom. The US constitution reserves these rights for all citizens regardless of their societal status. In a broad sense, the right is asserted for the minority as the government instruments and takes care of the majority.

Discussion

Criminal law

This is a combination of laws that have the capacity to bring severe outcomes like punishment when one fails to comply with them. Depending on the jurisdiction and offence, there is a provision that it might guarantee criminal punishment. According to Fletcher (1998, p. 4), this can be executed in many forms like loss of liberty, fines, government supervision and execution. There might be some acts of crimes that can not be allowed. This can be done if they are not consistent between different criminal codes.

In some particular codes they can end up being blurred. To add on these, there are occasions where civil infractions end up giving rise to criminal consequences. Undeniably, criminal law is mostly enforced by the government. Going against this law is an offence and there are clear punishments set for it. This makes the law unique law because it has to be

adhered to. In the modern world, every crime that is committed has some criminal elements in it.

Cases that prove to be serious might attract capital punishment. Caning and whipping can be used as corporal or physical punishment. Although they can be appropriate in distinct occasions, they are prohibited in other parts of the world. A jurisdiction will tell the conditions that an individual will be incarcerated under in jail or prison. Convicts might be required to conform to particular guidelines in cases where the government is supervising like house arrest.

This can be said to be part of the probation or parole regimen in place. In other scenarios fines can be used in extension to individuals who are convicted of a particular crime. There are many objectives that guide the need to enforce a given criminal law.

In the first place, it is assumed that individuals are supposed to suffer for committing a crime. Criminals inflict pain on offenders and the law is supposed to tilt the scale and make them feel the pain they made others to go through as a result of their actions. In addition, it is supposed to come up with a sufficient penalty that will dissuade offenders from criminal activities. The main target can be the society at large where other individuals will fear such activities knowing their implications.

To give this situation a more critical approach, these criminals are supposed to be kept away from the society through punishments so that the public is protected from their bad behavior as much as possible. Gross (2005, p. 5) argues that in achieving this, the law has provisions like prison sentences, <https://assignbuster.com/introduction-the-jurisdiction-and-offence-there-is/>

banishment and death penalty that can help to enforce these.

Implementation of this law on the wrongdoer aims at changing the person's morals to meet societal ethics. People are supposed to live in a society harmoniously and in cases where individuals make others uncomfortable they ought to be assisted by proper identification.

Criminal law seems to be a victim oriented theory that is supposed to result into punishment and as a matter of fact the offended should not be forgotten. Since criminal laws prohibit criminal acts there must be proof of the crime committed.

Constitutional Rights before Arrest

The law does not allow for any unreasonable searches, seizures or arrests on any citizen unless with a probable cause. Evidence that is presented when a person is subjected to unwarranted arrests can not be admitted in any case. An individual can not be tried repeatedly for the same crime after being set free. As a matter, of fact the government can not decide to make any ex post facto laws. Citizens are not supposed to be harassed by the government through the use of a criminal process. In addition, the law is expected to treat everybody fairly and uniformly.

Every individual is entitled to self incrimination and this is supposed to protect them from any attempt to extract information through torture (Hart, 1968, p. 12). Individuals are entitled to effective assistance of legal counsel. People's expectation of privacy is supposed to be adhered to. An area can only be searched without a warrant of arrest if the said individual does not have any expectation of privacy. Officers are not supposed to enter into a

person's home or apartment without any permission. This implies that the more citizens have a higher expectation of privacy the less officers can invade their privacy.

According to Smith (1998, p. 7), the police are not supposed to educate an individual that he/she has the right to their own privacy and it is expected that people should know this. In cases where an officer is suspicious about an individual, then they can stop and frisk. Arrests can also be done when an officer is in hot pursuit of an individual. Whenever officers have a warrant of arrest they are supposed to knock and announce their presence. The person has the right to remain silent.

Constitutional Rights after Arrest

The most important fact and notable right after one has been arrested is that they are entitled to an attorney to represent their interests. When the individual has money problems, he is supposed to be given a court appointed attorney. This has only been opened up recently as it was only guaranteed for in capital cases. It is supposed to be extended to arraignment and preliminary hearing up to the time one is sentenced. Some individuals who wish to appeal against a judgment given are also supposed to be assisted with an attorney. Whenever the police are questioning individuals, an attorney is supposed to be there and witness the process.

An individual can stop answering any question which will mean that the whole activity is supposed to end there. In addition, the defendant has a constitutional right to remain silent. An individual cannot under any given circumstance witness against himself (Brill, 1989, p. 9).

This right is a right against any self inclination. In extreme cases, it is argued that some form of physical evidence can be presented after compelling. This can only be done when information is gleaned from an illegal confession.

After persons have been arrested they are supposed to be told and informed about their rights under the constitution by the police. Everybody who has been arrested is presumed to be innocent unless they are proved to be guilty through the right process. There is a spousal privilege where a private conversation between husband and wife is protected. Secret statements made between the priest and the penitent are not supposed to be revealed.

A person can only produce physical evidence when the method that is used is not intrusive.

Constitutional Right to Trial by Jury

This right is extended to those individuals who have been accused of a crime that is punishable by more than six months in prison. Whenever a person is being tried under a jury the people selected to hear that specific case are supposed to be qualified. This is to ensure that the whole process preserves the integrity it deserves. Jurors who are overseeing a given case can only consider the evidence presented at trial. According to Burns (2009, p. 15), there are cases where the venue of the case is changed and this dictates that jurors who are going to listen to that case be selected from the new location.

Jurors are only supposed to listen to any other source and they are supposed to disregard any information that they hear other than what is presented in the court itself to give a sound ruling. To make good facts and ensure that

the case is intact to satisfy the individual (accused), jurors are supposed to be separated. The state is supposed to prove beyond any reasonable doubt that the defendant is guilty for what has been advanced. Before any deliberation is done the court is supposed to define a reasonable doubt. In other words, the state has to prove beyond any reasonable doubt that the defendant is guilty of the offence in question.

Lehman (1997, p. 12) adds that juries of six are supposed to reach a unanimous decision for their judgment to be termed valid. In this case, it is argued that whatever decision is reached must be unanimous for authenticity. Where the jurors are not able to agree on a final decision, this is termed to be a hung jury. The defendant has a right to be retried if the jury is not able to reach a unanimous decision about the case.

Constitutional Rights Post-conviction

Whenever individuals have been convicted of any offence they have not been entitled to unusual and cruel punishments. For instance, a sanction of death is supposed to be enforced in a way that will not end up being cruel and unusual.

This will only be termed cruel if it involves lingering death or torture. A prisoner who is mentally ill is not supposed to be subjected to any execution at a given time. In cases where there is a mentally ill person he/she is supposed to be forced to take medication for them to return to normalcy (this should be done irrespective of their liking). The treatment that is used on a prisoner is not supposed to lead to any side effects at all. This is because side effects can end up undermining the fairness that the case is

supposed to have. The constitution prohibits any unnecessary and wanton infliction of pain to a prisoner (Sadakat, 2005, p. 5). Prisoners are not supposed to suffer from malnutrition or prey on each other.

This implies that they are entitled to adequate medical care while in prison. Those who commit sex offences while in prison are supposed to register their addressees so that they are known by the community.

Conclusion

Constitutional rights are important for any country as they secure liberties and ensure that every individual is guaranteed justice.

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