

# Introduction to constitutional law essay

Countries, United States



The Constitution is a basic and vital requisite of a government. A constitution is a written document wherein the rules and principles being upheld by a government, organization, or any political entity are stated. In the context of countries, Constitution is a definition of the basic political principles, procedures, powers, responsibilities and procedures of a government.

The Constitution is a very vital part of the political existence of a country.

The Constitution plays a big role in protecting the rights of the constituents and in ensuring that there would be order in the country. Reasonable

**Suspicion and Probable Cause**            The term “ reasonable suspicion” is often heard when the topic is on crime and the need for a search and warrant.

In the United States, “ reasonable suspicion” is a legal standard which refers to a circumstance in which a person is “ viewed” as engaged in a criminal act. This means that a person has been, is, or about to be engaged in a criminal activity. The basis of “ reasonable suspicion” should be concrete evidences and facts.            “ Reasonable suspicion” requires fewer

evidences as compared to probable cause. Reasonable suspicion could be evaluated through a “ reasonable officer” or a “ reasonable person.” This means that there should be someone who would stand as a witness who could justify the claim that the person being suspected has been, is, or about to be engaged in a criminal act. The claim of the person should be based from evidences and facts and should not be a mere hunch.            On the

other hand, probable cause is also a legal standard in the United States which states that a police may arrest or conduct searches to individuals or groups.

In “probable cause,” the grand jury should be convinced that the individual is guilty of a crime. The term was explained in the Fourth Amendment of the constitution. There should be a reasonable and justified belief that an individual has been guilty of committing a crime or the person is linked to a criminal act which has a same degree of certainty. “Probable cause” requires a very substantive set of evidences and facts as compared to “reasonable suspicion.

” But then, the loophole with “probable suspicion” is that hearsay could also serve as a justification if it was from a reliable source. Exceptions to Warrant Requirement  
Open Fields Doctrine- “Open fields” may refer to areas like pastures, woods, open water or any place which could be considered “public.” This exception applies to circumstances in which persons may be searched without any warrant on the basis that these individuals having activities have no concrete or reasonable expectations of privacy. This exception emphasizes that “open fields” are areas which are not bounded by the constitution. Hence, the right of an individual cannot be fully exercised. The Open Fields Doctrine argues that “open areas” cannot be construed as “paper, person, houses, or affects” which are bounded or protected under the Constitution. Searches incident to a lawful arrest- this rule permits searches incidents to an arrest without any warrant.

This has been applied in the American law. The rationale behind the search is that the individual was seen to have committed an imminent danger. The arrested individual was just prevented from destroying any evidences or threatening a police officer. When an arrest is to be conducted, it is always

reasonable that the arresting officer would take hold of the weapons and evidences from the individual arrested.

For example, an individual who was drunk was losing control of himself which threatens the life or property of another individual, the person could be searched and arrested. Motor Vehicle Exception- Individuals who are in automobiles are deemed by the Supreme Court to have lesser expectation or right to privacy. The rationale behind was that vehicles are not considered as residences that serve as repositories of personal effects. However, vehicles are not subjected to any random search; searches to be conducted in vehicles should be backed up with probable cause or any reasonable suspicion of any criminal act.

The police are given the right to conduct a search inside the vehicle if there is a clear basis of probable cause but they cannot extend the search to the individuals inside the vehicles if there is no explicit probable cause that could be inferred from the passengers of the vehicle being searched. Exigent Circumstances- this applies to instances wherein there is an imminent danger or threat to a life of an officer or lives of others. A person who is believed and is guilty of any probable cause or reasonable suspicion shall be subjected to a search. Right to Counsel            The right to counsel is emphasized in the Sixth Amendment of the constitution of the United States. This means that the Sixth Amendment assures that defendants have the rights to avail assistance from counsels. Furthermore, the Sixth Amendment guarantees that a defendant has the right to be heard not just through

his/her lawyers but also, if he/she would want to, he/she could speak for himself/herself.

However, this right may be denied from the defendant if he/she is not competent enough to defend his/her rights as deemed by the court.

Meanwhile, the Fifth Amendment states that no person shall be held for a capital or infamous crime without the presence of a Grand jury.

During hearings, witnesses are not granted with a right to have their lawyers inside grand jury rooms. Normally, witnesses are granted with their rights to have their attorneys when they are being investigated by police

officials. The Fifth Amendment also guarantees the protection to those instances which are related to police interrogations and confessions of suspects. When compared, the Sixth and Fifth Amendments have their own parameters as up to what extent a suspect should be allowed to access a counsel. The nature of the punishment that shall be imposed unto the individual who was found to have committed a criminal act shall be the basis if it is “ infamous” or not.

Those crimes which have “ capital punishment” are required to be tried on indictments. Conclusion

The topics that were discussed above are just some bits of the content of our constitution—each of them requires a careful scrutiny of its content. We know that some of the provisions are not always beneficial to the welfare of the people.

What we can do is to uphold our rights while understanding more the essence of the constitution of the country.

We cannot deny the fact that the Constitution is the most important document for a country.

Without this, there will be no order and progress in the country. It is important that we know the content of our constitution and to have the right interpretation of what was stipulated in the constitution—because, the constitution is our basic weapon in defending our rights as an individual or as a citizen of a country. References: Constitution of the United States [Electronic (2007). Version]. Emory Law. Retrieved June 18 from <http://www.law.emory.edu/cms/site/index.php?id=3080>.

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