

Analysis of the 8th amendment



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8th Amendment

Introduction

The 8th Amendment (Amendment VIII) to the United States Constitution can be legally defined as the section of the United States Bill of Rights that which forbids the federal government from imposing excessive fines, neither inflicting cruel and unusual punishments nor imposing excessive bail. The 8th amendment was approved to be part of the United States Constitution in the year 1791. This amendment was almost similar to a stipulation made in the English Bill of Rights of 1689 where the government made a declaration to the point that they had to operate as their ancestors had by not demanding for excessive bail neither imposing excessive fines nor inflicting cruel or unusual punishments.

In the case of England the provision was mainly driven by the punishment involving Titus Oates. During the reign of King James II in the 1680s Titus Oates worked as a fixture in the London pillory circuit. Oates was involved many ordinary penalties that had been collectively imposed forced on him in a manner that was both excessive and unparalleled. Oates had lied under oath which led to many innocent people being placed under the death sentence. Parliament approved the declaration against “cruel and unusual punishments” for England in the year 1689. The declaration was explained by the parliament that it was supposed to prevent punishments such as the one inflicted on Titus Oates by the King’s Bench. In December 1689 the then parliament endorsed the provision to be passed into law.

The first state to adopt a stand similar to that of England on the issues was the state of Virginia. In the year 1776 the Virginia declaration of rights

incorporated the English bill of rights and then went on a step further to recommend in the year 1788 that the above provision be included in the united states constitution as at the Virginia convention that meant to approve the U. S constitution. It was some Virginia states men such as Patrick Henry and George Mason that first endorsed that congress be limited by use of the restriction as in the English bill of rights. This was based on the fears that if that did not happen the congress could inflict some punishments that were both unusual and severe on criminals. The two Virginians also stressed the need for the Congress to do away with the line in the English bill of rights that seemed to admit of tortures and barbarous punishment inflicted on its people in the past. And also recommended congress to start the enactment of civil law in favor of the more practiced common law. In the end Mason and Henry were successful in their quest and then the 8th amendment was adopted by the United States. In the year 1789 James Madison changed the words " ought" in the English bill of rights to" shall" then proposed it to the congress for amendment.

Cruel and unusual punishments

The eighth amendment according to the Supreme Court prohibited entirely the infliction of some punishments and at the same time forbid some other punishments which when compared to the crime for which they were given for were seen to be excessive or those which were seen to be excessive when the competence of the perpetrator was put into light. This was seen as necessary because in the earlier years some of the judgments handed down to the people were in excess considering the fact that the perpetrators were either incompetent to commit such crimes or the crimes committed were

minor. In the year 1962 the supreme courts ruled that the cruel and unusual punishments act applied to all the states of the United States through the fourteenth amendment. This followed the case involving Robinson vs. California, 370 U. S. 660 in the year 1960. Before the Robinson case the eighth amendment had only earlier been applied in cases against the federal government. In the case involving Furman vs. Georgia, 408 U. S. 238 of the year 1962 the four principles that would determine whether a punishment passed onto a perpetrator was "cruel and unusual" were written by Justice Brennan.

These included statements that for the punishment handed down judging by how severe it is degrade human dignity under conditions as in the case of torture, it also that any unusual and cruel punishment was one which was totally and clearly rejected by the whole society, one which was seen to be inflicted in a manner that was seen to be wholly arbitrary or one that was patently unnecessary. Brennan went on to write that it was an expectation that no American state would pass a law that would seem to undermine any of the four principals, such that all decisions made in court involving the eighth amendment would consider all the these principles.

The punishments for which according to the eighth amend were forbidden regardless of the crime committed would include any form of disemboweling, public dissecting, drawing and quartering or burning alive. This in relation to the four Brennan principles where punishments that were totally rejected throughout the society. In the cases of Atkins vs. Virginia 536 U. S. 304 of 2002 the supreme court declared executing mentally handicapped people fell in the forbidden punishments and also in the case of Roper vs. Simmons

543 U. S. 551 of 2005 where the court ruled that executing people under 18 years was a violation of the eighth amendment regardless of the crime committed by the perpetrator.

Punishments that were forbidden for certain crimes included cases in which the court had to overturn punishments such as the *cadena temporal* which mandated that “hard and painful labor” shackling are done away with while in the process of incarceration or when faced with civil disabilities that were permanent. The case mentioned above took place in 1910 and was often seen as a means of establishing some proportionality when applying the eighth amendment. In some other cases it was ruled that punishing a natural-born American citizen for any crime by taking away his citizenship was perceived to be unconstitutional and primitive as it involved completely damaging the person’s status in the society. In a case involving *Coker vs. Virginia* 433 U. S. 584 of 1977 the court at the time clearly stated that the imposition of a death penalty or rape was totally unconstitutional and that applied to any other case where death did not occur. It went ahead to clarify that rape crimes by definition do not include either death or even any serious body harm to the other person.

Excessive fines

For many years the United States Supreme Court never had much to say when the subject of excessive fines was mentioned. In one early case the Supreme Court had no power to revise any judgments passed by a lower court as regards the subject of heavy fines being imposed on someone. In later years the need to review the amount of fines levied on a person because it always led to the imprisonment just because the person was

unable to raise the amount imposed on him/her by the court. In a step meant to ensure equal citizen protection the court found a way to put to meaning the words "excessive fines" when compared to the person for whom the judgment is meant to affect. But the court also ruled out applying the above clause could not be applied to cases involving private cases where the government had not been involved in the prosecution nor was it to receive any share of any of the awarded damages. This decision was based on the intention for which the excessive fines clause was meant for. The court clearly stated that at the time when the eighth amendment was adopted into the United States Constitution the word 'fine' was taken to refer to any payment that would have to be made to sovereign entity for an offence committed.

THE court left open the decision as to whether the clause could be applied to qui tam actions or cases involving civil penalties but at the same time it concluded that the excessive fines clause was initially intended to affect the fines that were only imposed by one payable to the government. In cases involving any civil forfeiture the excessive fines clause could be applied. The meaning of the clause as it regards to the quantum punishment of any particular offences when it is independent of the ability of the offender to pay the fine imposed on him still awaits the result of legal proceedings.

Excessive bail

In England it was the duty of the sheriffs to decide whether or not a person deserved to be granted bail. Due to the continual abuse of power by the sheriffs the government back then released a statute that clearly categorized the bailable and the non-bailable offences. But these statutes

could be subverted according to the decision of the King's judges. According to the law then a person could be held without bail depending on the commands of the sovereign authority. It was often argued that the King did not have the authority to make such decisions and this led to the infringement of human rights when people were intentionally kept in prison despite having committed bailable offences. This and many more ambiguities were eventually put to an end by the Habeas Corpus Act of 1679. After the Habeas Act was passed judges were faced with the decision to set the bail amounts but they often posed some amounts that were impracticable. It was until the year 1689 that the English bill of rights forbids the demand of excessive rights but a further amendment to distinguish between bailable and non bailable offences was needed.

Bail is said to be excessive and in violation of the Eighth amendment if the value to which it is set is higher when compared to the reasonably calculated value that is aimed at ensuring the government's asserted interest. The aim of setting bail is said to be as a guarantee that the person who is accused is going to present himself for trial and accept the sentence that is handed down to him and no more. In order for a person to be able to challenge the amount of bail imposed on him he must move for a reduction. If the reduction is denied then the court of appeals followed by the Supreme Court can overrule the decision. The eighth amendment could not be applied to post convicted release cases that await appeal but it is normal practice to grant leases in such cases.

Bail is seen to uphold the presumption of innocence before a person is tried acquired only after centuries of struggle. The excessive bail clause adopted

by the United States constitution from the English bill of rights had slight changes made on it. In the England act there was no provision that stated that one had the right to bail at all times but only provided that the bail amount imposed on a person was not to be excessive in the cases that bail could be granted. The governments argued that the amount of bail imposed was not to be excess when compared to the weight of the crime committed by the person.

Conclusion

The eighth amendment to the United States Constitution was a good step in defining various issues that surrounded judgments passed onto persons since time in memorial. It is aimed at eliminating the infringement of the basic human rights as it regulated the amount of punishment that one could be given based on the offence. In the years before the amendment could be done people's rights were sometimes stepped on as some of the judgments passed amounted to torture on the person. This is in a way seems to bring fairness in the judicial

System of the United States. This amendment protected people from situations where the amount of bails, fines imposed on the person could not match the perception of the crime committed. The American constitution is supposed to ensure a stable and responsible government. It is generally supposed to protect the rights of the American citizens even against infringement by the government itself. this is exactly what the eighth amendment went on to do, making every citizen equal before the law and making sure every citizen gets a fair judgment based on the crime

committed, whether it regards the bail set or the amount of fine one is asked to produce.

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