

Legal system



of Lecturer Legal Systems 13 December Legal System A 2. D 3. C 4. C 5. C 6.
B 7. C 8. A 9. B 10. B Solution to Essay Questions

11. The Fifth Amendment of the US constitution offers the citizens of the US protections against government actions that do not follow the rule of law.

There are five major provisions of the Fifth Amendment. The first provision of the 5th Amendment of the US Constitution is that no citizen of the US should be made to face prosecution for a civic crime without initial indictment. The second provision of the 5th Amendment is the protection against double jeopardy and this means that a person accused of a crime may only be prosecuted once for each crime and if the jury acquits the accused, there cannot be a second trial. The third provision is the right against self-incrimination, which means that individuals facing trials should not be forced to testify against themselves in the court of law. The fourth provision talked about the issue of due process clause which implies that the government has no right to deprive any individual of the right to life, property or their liberty. The fifth major provision of the 5th Amendment stipulates that the government has no right to take any individual's private property, except it is needed for a public purpose and even if that happens, the government must pay a fair price for this private property (Scwartz).

The provisions of the Sixth Amendment are based on the rights of an individual to a speedy and open trial. People accused of committing a crime should be tried in places where the crime are believed to have taken place. The Sixth Amendment also stipulates that federal and state defendants have the right to have a jury that is not biased in order to decide whether they are guilty or innocent in a criminal offence. Another provision of the Sixth Amendment is that under no circumstance should an accused person be

prosecuted if there is no concrete evidence against the person. The government is prohibited from prosecuting accused persons without giving them prior information of the type of charge leveled against them. The Amendment also stipulates that the accused person is entitled to reexamine witnesses that testify against them in the court of law. The accused also have the right to persuade or compel supporting witnesses to give evidences in the court and to have a lawyer that would defend them in the court of law (Scwartz).

The Eighth Amendment of the US constitution stipulates that the court should compulsorily free criminal defendants from jail before their trial and this is based on the ability of the defendant to pay their bail, which stands as a guarantee that they would appear before the court during their trial. The Amendment also states that people convicted of crimes should not be punished cruelly by the government and they must not be made to pay any unreasonable fine that was placed by the government. Though, there are controversies as to the punishments that are cruel, but the Eighth Amendment makes it clear that the convict must not be made to face punishments that are not proportionate with the crime committed. This implies that the punishment that the convicts are permitted to face as provided by the Eighth Amendment should commensurate with the kind of crime they committed. The Eighth Amendment also has it that putting a convict to death is cruel and is one of the punishments that are not usual (Scwartz).

12. Civil cases and criminal cases share some similarities and differences and these shall be established in this paper. Civil cases and criminal cases are both lawsuits, but the difference is that the lawsuits in civil cases are

filed by an individual or corporation, while the lawsuit in a criminal case is filed by the government. The individual or corporation that files the lawsuit in a civil case is called the plaintiff, while the government filing the lawsuit in a criminal case is called the prosecution. The person standing trials in a civil and criminal case are usually called defendants and this is one of the similarities that exist between civil and criminal case.

Another difference that exists between civil and criminal cases is in the mode of punishment. It should be noted that it is allowed for individuals found guilty in a criminal case to be incarcerated, but it is not allowed for the ones found guilty in a civil case to face this kind of punishment. While a defendant in a criminal case could face the punishment of execution, the defendant in a civil case must not be made to face this kind of punishment. It is therefore pertinent to note that the punishments in a criminal case are more severe than those for a civil case. The punishments that the defendants in a civil case are usually made to face are to pay the plaintiffs for the loss they have caused them (Scwartz).

Another basis of comparison for a civil and criminal case is in the burden of proof. In criminal cases, the state is saddled with the responsibility of producing proof as regards a criminal case, while in civil cases the burden of proof is usually placed on the plaintiff. It is the state that proves that a defendant is guilty in a criminal case, while the plaintiff tries to provide evidence to show that the defendant is guilty in a civil case (Scwartz).

Work Cited

Schwartz, Bernard. The Great Rights of Mankind: A History of the American

Bill of Rights.

Rev. ed. Madison House, 1992. Maryland: Rowman & Littlefield, 1998.