The statutes research paper example

Philosophy, Freedom

The anti-miscegenation statutes of USA refer to the laws which were part the American laws before the establishment of the United States. The term miscegenation refer to marriages between people of different races. Therefore, the anti-miscegenation laws refer to laws that were passed by individual states to prohibit marriages between people of different races. Individuals who involved in miscegenation were charged of adultery rather than for miscegenation. Anti-miscegenation laws criminalized sexual relations and cohabitation between whites and non-whites. For instance, in 1908 Oklahoma state banned marriages between people of African origin with people of non-African origin. The USA Congress had proposed amendments to the anti-miscegenation laws but were never enacted until the supreme court (1967) declared them unconstitutional in their ruling for the case involving Richard and Mildred.

The first case selected is Perez v. Sharp and Loving v. Virginia. The case involving two residents from Virginia state Richard Loving a white man and Mildred Jeter a negro in June 1958 was the first miscegenation case to be handled by the courts. A grand jury in Circuit courts of Caroline County tried the couple and condemned their act because of violating Virginia’s miscegenation laws (Gold, 2008). The couple pleaded guilty and were sentenced to a one year jail term. They argued that God created people in different races and placed them separately on different continents meaning He never intended them to mix. The Loving’s filed an appeal in the United States District Courts challenging that judgment. In 1965, the court denied to listen to their plea and the Loving’s resulted to appealing to the Virginia supreme court (Gold, 2008).

The Virginia Supreme court upheld constitutionality of the anti-miscegenation and affirmed the convictions as were passed by the County Court. The Loving's were not contented with the judgment and filed another appeal in the US Supreme court. The Virginia code 258 stated if a white would go out their state for purposes of getting married and later return, they were to face the law. Anyone who was found guilty of this offence was to be confined to state penitentiary for a period not less than one year and not more than five years (Villazor & Maillard, 2012). The code prohibited issuance of marriage certificates to marriages between different races. The supreme court reversed the convictions in 1967 after they observed that miscegenation laws inflicted ones freedom, liberty and equality for all. It respected the fact that the decision to marry or remain married lay in an individual not a state. The judges in the US Supreme termed the anti-miscegenation laws as unconstitutional and from then the laws were not in effect (Gold, 2008).

The second case selected is Perez v. Sharp. In 1947 Andrea Perez and Sylvester Davis filed for a marriage certificate at the County Clerk in California. The statutes Civil Code Section 69 denied marriages between people of different races and therefore the clerk denied them a certificate. Interracial marriages were considered illegal and no court was willing to find facts for making them unconstitutional (Sollors, 2000). The Civil Code authorized imposition of criminal penalties to any individuals going against it. The petitioners (Perez and Davis) challenged the statutes claiming them to be unconstitutional and discriminative on the basis of religion which allowed for interracial marriages. The US Fourteenth amendment protected

personal liberty but failed to clearly define the exactness of personal liberty as denial of marriage was inflicting on one's personal freedom. The anti-miscegenation laws were denying individuals their rights as they did not observe the fundamental right of one's liberty to make their own decision in matters affecting their personal life e. g. Marriage (Sollors, 2000).

The California supreme court ruled in favor of Perez and Davis in 1948. The judges headed by Justice Roger Traynor passed the judgment that had never been made before constitutionalizing interracial marriages. Justice Traynor in his judgment observed that the right to join with a person in marriage was one's personal choice and not the decision of the state. The public opinion and the judicial opinion were all against the challenge from Perez who strong believed it right for marriages with individuals of their choice irrespective of their race. The decision was effected in California but other states still remained reluctant to embrace that change (Sollors, 2000).

The two cases were similar in that they faced same challenges and that the plaintiff's had similar ideologies to ending anti-miscegenation. Perez and Loving fight so hard for their personal liberty of making. They both wanted freedom to make independent choices in choosing partners in marriage without the involvement of the state. They were also different in that the Loving's had a tougher battle compared to Perez's, Loving's challenged the statutes from the county courts to the US supreme court seeking for justice. The Loving's pleaded guilty to the allegations and were sentenced unlike the case involving Perez and Davis where they got justice without being convicted.

The decision of making the anti-miscegenation had effects on the Brown v

Board of education, 343 US 483 (1954) and the Fourteenth Amendment. The Brown v Board of education was a decision by the US Supreme court which declared state laws that advocated for separate public schools for the whites and the blacks unconstitutional. The ban of anti-miscegenation laws further promoted the Brown v Board quest for equality (Patterson, 2001). Racial segregation in education was halted which denounced earlier attempts to scientifically justify racism though it faced stiff challenges from the whites who opted close down the schools rather than have them desegregated. The Fourteenth Amendment which resulted from the Brown v Board after realizing that having separate educational facilities was total inequality, advocated for the ‘ Equal Protection Clause’ (Patterson, 2001). This Fourteenth Amendment stated that no state would deny any person equal protection of the law. The decision on anti-miscegenation catapulted the efforts made as this was a result of the Amendment.

Rejection of the anti-miscegenation laws had a great significance to the Defense of Marriage Act(DOM) in that it encouraged interracial marriages. However, the Defense of Marriage Act highly discourages same sex marriages but in doing so it perpetuates inequality. DOMA is a right denying tool for homosexuals. Since the rejection of the anti-miscegenation laws encouraged promotion of people’s rights and their personal liberty, DOMA should therefore stop inflicting on homosexuals rights and give them a chance to make independent choices in their lives. Individuals involved should also emulate Loving and Perez in fighting for their rights and understand that it’s not an issue of having the majority but it’s an issue of knowing ones rights and fighting for them through the accepted channels

(Sollors, 2000).

The anti-miscegenation laws were freedom inflicting and it took years to reverse some of the doctrines that were assumed to be true. The dogma of anti-miscegenation laws was proven wrong by people who decided to open their thinking and never restricted themselves to self or group interests. Protecting personal liberty and people’s lives should the core objective of any group or organization.

References:

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