Abstract

Personal liberties are documented or undocumented laws that are guaranteed for any individual and are protected constitutionally or through interpretation by a court of law. Individual liberties tend to address more fundamental rights and freedoms than those addressed in the Bill of Rights. These civil rights include but are not limited to the freedom of speech, right to engage in marriage and to vote. Others include the right to autonomy, right to be free from unwarranted entry and searches, as well as the right to a fair trial in any court of law. The difference between rights and liberties is that rights are all sorts of protection guaranteed for an individual while liberties are protection from government actions. The fundamental purpose of rights enshrined in the constitution is the protection of individuals from acts of aggression, discrimination and oppression by other individuals, groups and non-governmental organizations. Rights, therefore, seek to create a situation of equal opportunities for all citizens regardless of race, gender, social status or any other distinguishing factor.

The Privacy Rights of the American Citizen as Engraved in the Constitution.

The explicit expression of any right pertaining to privacy of individuals is not found in the constitution. It is instead constituted from the understanding of several other rights and freedoms and is usually an interpretation done by the justice system. It is usually a difficult task for the state and its agencies to balance between its citizen’s right to privacy against the public interests, especially those concerning safety and security.

The law clearly indicates that the state shall not at any time enforce any law or legislation that denies citizens of the federation their privileges and immunities granted by the constitution without following due process. Consequently, the state cannot takeaway the life, freedoms, liberties or even property of an individual until a court has sufficient evidence to guarantee the prosecution. As a result, this amendment makes the government reactive rather than proactive, a compromising position especially when dealing with matters of national security. The rights protecting the privacy of individuals and enhancing liberty include:

* The autonomy clause in the First Amendment that prohibits the state from interfering in a person’s beliefs and mode of worship.
* The Third Amendment prohibiting of homes from forcefully quartering the military.
* The Fourth Amendment protecting citizens from arbitrary entries and searches of their homes.
* The Fifth Amendment protecting the integrity of personal information by preventing a person from self-incrimination during trial.
* The Ninth Amendment prohibiting disparage of natural rights retained by citizens through constitutional acts.
* The clause stipulating due process in the Fourteenth Amendment, which prohibits the state from introducing or amending laws to constrain individuals and deny them already constitutionalized rights and freedoms. The clause also prohibits the state from denying individuals the right to life and own property, as well as liberties without following due process. The clause compels the state through its various arms and agencies to ensure the provision of equal opportunities and fair treatment of all its citizens.

Stephens and Scheb (2012), identified the above privacy rights outlined in the U.S. constitution as fundamental in protecting the liberty of citizens.

Personal liberty laws are laws that were initiated and subsequently implemented in America between the end of the slave trade error and the start of the civil war. These personal liberty laws sought to limit the extent to which the state can infringe into the private lives of its citizens while conducting its affairs. The system meant to ensure the human treatment of slaves as well as the safety of those who had been freed or had escaped. These laws sought to counter the punitive Fugitive Slaves Act that was passed by majority of states as an effort geared towards ending rising tensions between the northern and southern states. Only New Jersey and California passed the bills directly while other states such as Indiana, Illinois and Oregon supported the bill indirectly by closing their borders to black people whether escaped slaves or free men.

The act denied escaped slaves the right to trial by a jury only offering them the chance to appeal. In the nineteenth century some states granted freed and escaped slaves the right of trial and fair hearings, proceeding to issue them with lawyers to defend them when the need arose. After the ruling made in 1842 concerning the jurisdiction of enforcing the Fugitive Slaves Act, most northern states increased the rights of escaped slaves. These included the prohibition of co-operation with the federal government in the capture and prosecution of freed escaped slaves.

The Fugitive Slaves Laws meant to provide legal protection to slave owners who dealt with escaped slaves but instead worked to enhance the trade. These laws provided the legal grounds required for owners to venture into the northern states in search of free men. To possess the alleged fugitive all he had to do was present the slave to any judge, prove ownership and have the slave back in his service. The laws further imposed heavy fines and penalties on individuals who facilitated the escape of these slaves or obstructed their return to their master. The law made it extremely difficult for activists looking to end the trade as the assistance they previously received from members of the society was not forthcoming as peopled feared the repercussions of working with such groups or individuals. More draconian amendments were introduced to the law, denying the accused the right to testify during the hearing and placing financial responsibility of the fugitive in the hands of the respective federal agent.

Personal liberty laws came under attack several times from the time of their enactment in various states due to the impediments caused by the Fugitive Slave Act and other constitutional provisions in the law. A conviction that had found a slave catcher guilty of unlawfully pursuing a freed slave whose master had died was overturned by the Supreme Court citing several provisions in the law. The state had previously placed a ban on activities related to the sponsored immigration of persons for slavery. Upon appeal, the accused argued suspected criminals and fugitives cannot leave one state for another with the aim of escaping punishment or recapture. The conviction against him was reversed due to the supremacy clause that defines state laws to be inferior to federal laws.

Although the dispensation of justice related to the Personal Liberty Laws was unfair and done unequally, activists and abolitionists did not give up on the fight for a free and fair society for all. As a result, the northern states were unwilling to repeal the Personal Liberties Laws while the southern states wanted to maintain their Fugitive Slave Act and continue slavery. Tensions grew due to the rifts and consequently, the American Civil War was fought. The war led to not only the enactment of the Personal Liberty Laws and the repeal of the Fugitive Slaves Act, it led to an entire overhaul of the American constitution.

Glenn (2003), refers to the U.S. constitution as a document that serves to secure citizens’ liberty and rights for the nation’s prosperity. In support of Glenn’s (2003) assertion, the U.S. law stipulates diverse provisions on privacy rights aimed at protecting individuals from unnecessary scrutiny and access to personal information and interference by third party entities. The law of the land basically seeks to protect the citizens from infringement of their rights and denial of their liberties by state machinery. These rights are preserved by a variety of laws and clauses, top among them being the citizens right to privacy indicated by the fourth amendment that prevents the government, its agencies, other organizations and individuals from arbitrarily gaining entrance to a citizen’s house and conducting unwarranted searches and seizure of properties.

To ensure due process, a search warrant or warrant of arrest issued by a constitutional judge is necessary for such operations. The order is issued after the investigating officer, or the prosecutor has provided sufficient evidence or grounds of illegal activities taking place at the stipulated venue.  The search warrant, as provided under the Amendment, should be supported by an Oath. In the absence of an oath supporting a legal search warrant, an affirmation is necessary to implement for its execution (Wilson, 2012).

The Fifth Amendment further protects the individual from statutory requirements by providing citizens with the right to remain silent when questioned in any compromising situation. The amendment protects citizens from recording statements and giving testimonies without an attorney present to avoid self-incrimination. Furthermore, once a person has issued a no guilty plea and a trial has begun, the individual is protected from self-incrimination by the law and any evidence they provide against themselves does not offer grounds for conviction. However, if the accused offers self-incriminating evidence and chooses to change the plea from not guilty to guilty, then the trial ceases to proceed and a conviction is issued at the soonest possible time.

Every citizen has an entitlement for federal agencies’ protection regarding privacy rights associated with access to personal information. The individual has the right to decide what information they want to reveal about themselves and what they do not wish to disclose. The law further provides an individual with the right to make alterations to the provided information, perform reviews and be informed of all instances under which the information provided may be disclosed. Citizens have rights to determine the extent of information collected by federal agencies. The Privacy Act of 1974 dictates how personal information held by the federal government and its agencies is to be handled. It prevents unauthorized disclosures and protects the citizens’ from unlawful access to this information.

Other acts that are instrumental in protecting the personal information of individuals are the financial monetization act and the fair credit reporting act. The financial monetization act compels financial firms to issue privacy policy documents to clients explaining the sort of information needed by the organization, why the information is useful to the institution and how the information provided will be used. The law also requires the system to safeguard the information collected from illegal access by third parties. The fair credit reporting act requires that credit reporting agencies protect personal information obtained from the market. The law requires these institutions to have in place safeguards limiting those who can access their information as well as an easy means through which customers can access their information and make corrections.

Under the first amendment of the American constitution, the government is compelled to desist from prescribing certain choices or paths for the American public, recognizing the need for people to maintain their personalities and individualities through personal choices. The right seeks to separate state from the person by prohibiting the state from imposing certain aspects of human personalities on individuals. As a result, citizens have entitlements to choice in certain matters such as religious and political affiliations, marriage, and education. Consequently, the state cannot compel individuals to join a particular religion, get married or pursue education from a particular institution. These rights promoting personal freedom are further enhanced by the fourteenth amendment stating that no person shall be deprived of their constitutional or natural rights and freedoms without the following of due process.

Following the recognition of individuality and the establishment of the personality under the first amendment, the constitution goes further to establish an individual’s right from having their individuality exploited for commercial purposes without their consent. It recognizes individual entities, their identities, image and likeliness for the purpose of enforcing this law. The rights to publicity work hand in hand with the person’s rights to privacy to safeguard against misuse of a person’s identity by commercial entities. The right further prevents commercial institutions from using the image, likeness and identity of an individual beyond the authorized level.

The health information privacy rights stipulate various issues regarding the collection, access, dispensation, alteration and retrieving of medical information. Citizens have the right to request for copies of their medical history and receive them within a reasonable amount of time. Furthermore, they can check for misrepresentations or errors and correct them at their convenience.

The constitution also provides exclusive rights to the patients to choose who can access their medical information. Patients are able to determine what information about them is to be shared with third parties or other unrelated parties, including other medical practitioners and institutions. However, some restrictions might not be adhered to especially if they could affect the quality of care provided. The patient can tell the doctors not to share the medical information with the insurance provider if the patient intends to settle all expenses by themselves.

The medical practitioners are also restricted from using patient information for any other purposes other than the provision of medical care and attention. For example, the doctor cannot give the information to sales and marketing companies without the written authorization from the patient.

The patient can also make requests pertain the means of communication and the place they wish to receive communication. For example, one can request contact via e-mail rather than phone calls.

Students have an entitlement to privacy rules and restriction from access to personal information. Students’ family information should remain under private custody of authorized administrators. The information provided to institutions by the students should be well guarded and protected from access by third parties. Consequently, Sharing of students’ personal information should be subject to their consent or that of their parents.

Prisoners too have an entitlement to various privacy and personal rights accorded to humanity. They have rights to protection from unnecessary seizure or search, although limited because of security reasons. Individuals have the right to question federals and state agencies during search. Access to the personal information of patients treated in any health provision facility should be at the discretion of the patient or under authorization.

Students and their parents have the freedom to determine access to their private information by other parties.

Conclusion

Privacy rights highlighted in the U.S constitution have diverse federal implications. The privileges help a great deal in the promotion of relations between the state and individuals while making definitions on the nature of engagements with the state. The study found the individual rights provided for by an individual to be a fundamental pillar in defining the justice system and the operations of various state agencies.

The right of individuals are well guarded by the law in all the respective fields. These include, personal information collected by state agencies, information provided to financial institutions, personal information dispensed to health providers and insurance companies as well as educational institutions.

The fulfillment of these liberties however pose numerous challenges in the operation of various state agencies. The most affected agencies and institutions are those concerned with security and fraud. Operations against most organized crime in the country is hampered by the rights and liberties of the criminals involved. The law enforcement agencies cannot conduct random raids and searches without prior application for warrants. As a result, it is highly likely that the criminals receive prior information before the occurrence of these events allowing them to prepare themselves.

With the assumption of innocence until proven guilty, many individuals are able to manipulate evidence and cases in their favor.

The constitution of the United States of America provides numerous provisions for the enactment and promotion of civil rights and liberties for the American people. The study sought to investigate the means through which these rights and liberties are provided for and promoted. The study established the various classes of liberties and to e great extent addressed the privacy right s provided for by the constitution. The study sought to determine the events that led to the formation of a new constitution providing for the indiscriminate protection of all its citizens’ rights and liberties, especially those concerned with personal privacy.

The constitutional provisions for personal privacies in the fields of federal jurisdiction, the privacy of patient information, publicity and personality rights as well as the privacy of students and their families. These liberties can however be withdrawn through due process if the individual possess a threat to the rights and liberties of others. The liberties can also be withdrawn if the probable cause is proven against the individual for involvement in crime or other illegal activities.

Liberty of Americans constitutes central focus of the legal process as supported by different clauses and provisions on privacy rights.

References

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