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Political science 402 final exam

Retribution and Rehabilitation

Rehabilitation: a utilitarian idea that says that the end always justifies the means, aims at fixing what's wrong with the criminal rather than just punishing them
A well designed prison might rehabilitate individuals and if this is the case then these people will reintegrate back into society and if they are rehabilitated then they will be productive members of society

The four principles of rehabilitation:

- Gives comfort to those who are living (victim, families)
- Keeping criminals off the street
- Deterrence
- A well designed prison might rehabilitate individuals and if this is the case then these people will reintegrate back into society and if they are rehabilitated then they will be productive members of society

Retribution:

The two principles of retribution:

1. Only the guilty should be punished
2. Punishment should be proportionate and the punishment should fit the crime

Non Capital Punishment cases:

Weems v. U.S.

Overtured a case involving a member of the Coast Guard that allegedly falsified documents, he was sentenced to 12 years in a military prison with chains and 24 hour surveillance. They argued that this punishment was too severe for the crime. Implications were that it then started the theme of justifying the means and in many cases the punishment is too severe and does not justify the means which is seen in future cases.

Trop v. Dulles

Was charged with dissentation and revoked his citizenship which was argued to be too severe and a violation of his 8th amendment.

Robinson v. California

California had a law that made it illegal to be addicted to drugs, it carried a long lengthy sentence and was argued to be too severe.

Capital Punishment cases:

Furman v. Georgia: Was caught in the middle of a breaking and entering and accidentally shot and killed the homeowner. Was to be sentenced to death but said was violation of Furman's 8th amendment. The court agreed and said that the death penalty was unconstitutional and believed that it gave no gain back to the community.

Implications were that in monumental cases they then had to use two separate factors in deciding the amount of punishment which makes it harder to receive the death penalty.

- The first being the aggravating factors that lead up to the case
 - Justice of using it, is it heinous?
- Mitigating factors:
 - Didn't have

Gregg v. Georgia

Gregg was charged and convicted of murder and robbery and sentenced to the death penalty. The jury upheld the death penalty and Gregg appealed to the supreme court on violation of his 8th and 14th amendment. The Court ruled that it was not in violation because not in every case is the death penalty too severe because there is a well crafted procedure to decide whether to use the death penalty and it can be beneficial to use in some cases.

The implications of this case are that it came up with what is called bifurcation, which has a different jury for different parts of the case and combined with Furman makes it even harder to receive the death penalty.

McClesky v. Kemp

McClesky shot and killed a cop and was sentenced to death but argued that the majority of those who receive the death penalty are minority which is a violation of the 8th amendment via the 14th. The Court said that because insufficient evidence that in this case it was racially motivated the argument was dismissed.

Implications were that because new light had been brought to the death penalty being racially discriminatory that future cases will be consciencous of this fact.

3 general sources of privacy:

1. The Tort law
 - a. A civil state oriented law that has to deal with specific persons that violate the right to privacy that therefore need to pay for the damage whether it be bodily or monetarily.
2. The 1st amendment

- a. Through the right of free assembly and the right that you do not have to divulge any information about those in your assembly and safeguards your thoughts and intellect
3. The 4th amendment
 - a. Officials cannot make unwarranted searches and seizures. The Government has to have substantial justification for a warrant to be presented for a search

The implicit right to privacy as articulated in Griswold v. Connecticut

The right to privacy is not specifically articulated in the Bill of Rights but there is a general theme of the right to privacy however. In the case of Griswold the right to privacy is extended to the use of contraception by married couples. The case of Griswold also affectively spells out where this general right to privacy is existent, this is through the

- 1st amendment
 - Right of association
- 3rd amendment
 - Prohibition of quartering soldiers in a home
- 4th amendment
 - Secure of ones person of house, papers and effects
- 5th amendment
 - The right to not surrender anything to one's own detriment
- 9th amendment
 - To retain the rights of every person under the nation and to limit governmental power over citizens

4th amendment cases

Boyd v. U.S.

Boyd was busted for importing stained glass across state lines without paying a mandatory tax. In order to find and confiscate this glass the police used a "general warrant" where as they needed a specific warrant therefore the case was thrown out.

Implications are that it narrowly defined the 4th amendment as there needs to be substantial justification for receiving a warrant.

Olmstead v. U.S.

Alleged bootlegger that was arrested using unwarranted wire taps, Olmstead believed this was a violation of his 4th amendment. The court ruled against him saying that because the amendment was written back when this technology hadn't existed yet the 4th amendment therefore does not protect against wiretaps

Implications were that the courts substantially defined the 4th amendment to not enclose wiretaps as a warranted search. This also said implicated that we do not have a particular right to privacy.

Katz v. U.S.