Bill of Rights

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Bill of Rights is the first ten amendments in the American constitution. The provisions of the Bill of Rights remained under debate for nearly two centuries. Despite its interpretation, the first eight amendments of this bill remain silent about the common law of America. These amendments in the Constitution of America were made at times when the society was largely divided and there existed no mechanism for speedy communication. This is the reason that some critics argue that the Bill of Rights is largely inconsistent with the present day society. Right after the passage of these amendments (the Bill of Rights), its application was limited to the federal government. These were some constitutional limits which paved the way for the fourteenth amendment in the Constitution of America. This essay will argue that such a flawed approach in the Bill of Rights was the reason that civil liberties could not get the constitutional cover for such long in American history.

For over two centuries, the Bill of Rights remained unexecuted. During this period a debate over its interpretation was going on among the learned Congressman. Some believed that the rights which are enshrined in the Bill of Rights are what nature has bestowed upon every person on the earth. Further, if the states are not bound by law under this Bill, there remains no reason for selective interpretation or application of such Constitutional provisions. As many Congressmen were of the opinion that there are some inherent flaws in the Bill of Rights, therefore the fourteenth amendment was passed in 1868 (Hersch and Shinall 2015). This amendment in the Constitution of America defined civil liberties. After the passage of the fourteenth amendment, the Bill of Rights was divided into two broad areas: freedom and rights if individuals and liberties and rights related to crimes and criminal procedure. Right after the passage of the fourteenth amendment the Bill of Rights rose to prominence(Hersch and Shinall 2015).

In addition to bringing more clarity in the Bill of Rights, the fourteenth amendment helped in protecting the rights and liberties of the citizens of America. The Bill of Rights remained inconsequential for a very long period because of delay in its interpretation. The courts in America also considered the natural rights of the human being in a clash with the Bill of Rights, which resulted in the criminal conviction of many people in America (Siegan 2018). The lawyers, Judges and every person associated with the American legal system considered the Bill of Rights as of secondary importance since it was not legally applicable to the States of that time. The reason of its abrupt rise to prominence was the passage of further amendments which included the amendment for the abolishment of slavery, the amendment related to the equal protection of the law and the amendment which conferred the right to vote upon every American citizen including the women (Siegan 2018).

The Bill of Rights has always remained an essential part of the American constitution. It has served in various judicial proceedings (although some of them remain debatable), but the American political and legal experts believe that its spirit remained very pure (Cogan 2015). The conflict of Bill of Rights with the natural rights of the human persisted because of structural flaws in the Constitution, and not over their spirit. Since the passage of further amendments related to individual rights, the Bill of Right became clear and became the legal tool for civil rights protection. Since the protection of civil rights is the core of American politics, therefore the debate about the legality of such amendments had never gone out of the focus of the American lawmakers. The legal status of the Bill of Rights remained primary and of consequential importance throughout the history of America, therefore it appears that some structural flaws (and not the lack of spirit of Bill of Rights) could have overshadowed the importance of the Bill of Rights.

References:

Cogan, Neil H. 2015. *The Complete Bill of Rights: The Drafts, Debates, Sources, and Origins*. Oxford University Press.

Hersch, Joni, and Jennifer Bennett Shinall. 2015. “Fifty Years Later: The Legacy of the Civil Rights Act of 1964.” *Journal of Policy Analysis and Management* 34(2): 424–56.

Siegan, Bernard. 2018. *Property Rights: From Magna Carta to the Fourteenth Amendment*. Routledge.