Search and Seizure

[Name]

[Institution]

[Date]

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**The Exclusionary Rule**

The exclusionary rule is a judge-made rule that is based on evidence obtained by the government in violation of the constitutional right of a defender that is used against him or her. It is mostly applied to the suppression of evidence that is physical like any stolen property, a murder weapon or illegal drug. In such a case the policy violates the constitutional right of the offender that is the fourth amendment right of not to subjected to unrealistic and unreasonable seizure and search (Kaplan, 1973).

Weeks v. the U.S has first explained the exclusionary rule. Weeks has premised on the fact that when the policy is using too much of their authority in conducting a seizure or a search then the search must be considered as null and it must be void. This explanation of the rule is given in 1942, then in 1961 the liberal Warren Court, Mapp extended the rule of Weeks to the state courts. This court considered it the part of the citizen rights given by fourth amendment in the constitution. The court said that the rule was needed in the state because any remedies for the arbitrary search of the police are not yet to find out (Oaks, 1969).

The impact of the rule was made limited by the lack of support from the supreme court of the United States. The Court said that illegally obtained material can be used for the questions of the jury in the civilian according to by the internal Revenue Service. Court says that the seizure evidence is acceptable even if the police made an honest mistake in the search process and the search is done on the bases of a warrant. The Exclusionary rule, on the other hand, says that the evidence obtained illegally by the police cannot be used by the court and the rule further says that it is important to have a proper explanation of the fourth amendment. As without the proper explanation of the Fourth Amendment, the government would not follow the exclusionary rule (Kaplan, 1973).

However, before 1914 the US government has not fully articulated the exclusionary rule but it changed after the case of Weeks and this case was helpful to put a limit in the constitutional authority of the police and the government use of the given evidence that was taken based on authorized search and seizure. Moreover, the fourth amendment Secures that right of a citizen against any illegal search and seizure but if the police are searching for evidence in private documents and in letters then the Fourth Amendment is of no use (Oaks, 1969).

The House of the accused cannot be invaded by the US marshal if the warrant issued was not strongly supported by the constitution and the constitution has explained the particularity of the material for which the marsh conducted the search. In such a scenario the particular description and information cannot be obtained by the march without the help of the constitution. However, the Federal government is still not following the exclusionary rule. The authorities of the Federal government are still free to use illegitimately obtained evidence as a clue to find further legitimate evidence against the criminal or offender (Kaplan, 1973).

The background of the exclusionary rule:

Prior to 1961, the rule was followed by some of the sates and it as not fully extended across the United States. The rule was extended because of the cause in Ohio that involves a woman named as Dollree Mapp. The policemen entered in her house without her permission in Cleveland Ohio and they said that he have received a tip to find out a suspect of a recent bombing who could be here in the house. Mapp refused when the asked to get into the house for the search. The police had no warrant for that but they showed her a piece of paper and entered the house and they did not find the bombing suspect in the house. They found some unethical pictures in the house left by some proper tenant and that was the evidence based on which the police arrested her and charged with the possession of pornography. As pornography was a crime at that time in Ohio (AShrAf, 2005).

The cause was appealed by the lawyer of the women and it was found out that the warrant was not right. Entering her house without her permission is the violation of the constitutional right of Mapp and the cause was agreed in her favor (AShrAf, 2005).

The Fourth Amendment:

The given case and the exclusionary rule revolve around the right of the citizen given in the Fourth Amendment of the constitution of the United States. It says that the right of an individual should be secured in his or her house, papers and the effect against unreasonable seizure or search. In such cases no warrants should be issued but if supported by affirmation or aoth the particular place or person should be inquired and searched (Calabresi, 2003).

However, the exclusionary rule requires that the evident that are acquired on the bases of illegitimate search should be excluded from the court. If a warrant is issued against an offender and the policeman suspected against a criminal. The officer can ask for the identification of the offender and will check whether a warrant is issued or not. If there is a warrant then the police have the authority given by the constitution to search and arrest the offender (Calabresi, 2003).

**The Fruit of the Poisonous Tree Doctrine can be applied to evidence collection at a crime scene:**

The doctrine of the Fruit of the Poisonous Tree is in relation of the fourth Amendment and the exclusionary rule and it focuses on the decisions of the Supreme Court and on the lower courts of the United States. Generally, it is the fruit of the violation of the Fourth Amendment that is found out in some of the recent decisions made by the Supreme Court. However, at common laws, the illegality of the evidence was not being highlighted and the means that this evidence was obtained were not questioned (Bain& Kelly, 1976). If the government asked to consider the determinants and to investigate that the evidence collected was attained within that time them their illegality is not questioned (Casaccio, 1987).

Moreover, the fruit of the Poisonous tree is an expression that is used for a set of terms in the common law. It stands for unlawful investigation, seizing and searching and it also focuses on the question that whether unlawfully gathered pieces of evidence should be processed in the court or not. The ration of this metaphor is based on the evidence that is being collected. If the tree is tainted, that is the source of the evidence then anything that can be obtained from it like the fruit will be having the same flaws.

The doctrines have very prolonged effects. For instance, The European security professionals have come up with unlawful detention and tried to get profit from the extraordinary retentions in recent time. In case of the EP resolution on the alleged use of the European countries by the CIA for the illegal detention and transportation of prisoner’s states information was collected unlawfully. In the given cases at least two member states and one candidate country have sent their security professionals to the detention centers of the Guantanamo Bay, Syria, and Pakistan. The responsibility of these officers was no to provide any kind of assistance to their detained citizen but to gain information from these people. The countries in the EP resolution were Turkey, the UK, and Germany. In addition to that many countries have not sent their official for interrogations from their citizens in these sites (Geyer, 2007).

The second example of unlawful detention occurred form the exchange of information with foreign services. The UK government propagated the view that information obtained with the help of torturing foreign citizen and that information must be admissible in court as evidence. These evidence will be acceptable as long as the British officials are not involved in the torture itself (Calabresi, 2003).

The use of information that is obtained in such ways is open to dispute in the United States and in Worldwide. The constitution of the United States has given MANY CRITICAL RIGHTS TO ITs CITIZEN and both the state and federal government offer protections to the rights of the citizen. But most of the time State law offers right that is more expended in nature. (Calabresi,2003).

Fruit of the poisonous tree consists of evidence that is conducted from any kind of activities conducted by polices that violated the constitutional rights of the defender. For example, the police are listening to the statements of a drug dealer and record those without any warrant issued against the offender. in the statement, the dealer said that he has kept some of the drugs for a customer in a warehouse so that he can get those drug safely and if the police go to the building and find the evidence is inadmissible. However, some of the evidences can be admissible if the police get those illegally as well. Court uses the word attenuated taint” and inevitable discovery” to describe the nature of the evidences gained through unlawful investigations. The attenuation doctrine happens when, for example, police has no reason to ask someone to stop but he finds that the person who has stopped has an arrest warrant. If the officer takes that person in custody and finds out some evidence then there is a chance to consider so evidence legal in the court (Arenson, 2011).

However, another exception to the doctrine of the fruit of the poisonous tree is the statement of the defenders. If an officers torchers an offender to get information and the defendant gives a statement as a result of those beating then those evidence are inadmissible (Geyer, 2007).

**Conclusion**

The exclusionary rule is formulated to exclude all those evidence that is obtained in violation of the fourth amendment rights of the criminal defenders. This amendment protects the defendants against any kind of unreasonable seizure and search. The Fruit of the Poisonous Tree Doctrine talks about the similar thing as dose the exclusionary rule and both go hand in hand. this doctrine says that the state cannot use evidence against an offender at trial if that evidence were discovered as a result of evidence which is obtained by violating the fourth amendment. The fruit in the given statement refers to the evidence got as a result of illegally obtained evidence then those are poisonous as the tree was. Some of the critiques of the Fruit of the Poisonous Tree Doctrine say that it is necessary to prosecute the evidence to prove whether that was obtained through a source of any unlawful act. The government could consider that the evidence obtained has no connection with any unlawful activity and the information is not derived from the fruit of any taint information.

The court may cover up the connection between the poisonous tree and the fruits obtained from it and will prove the sources of the evidence as legal. There could be some information that is obtained as a result of both legal and illegal information (Arenson, 2011). In such cases, the court has to investigate whether the right of the citizens by the Fourth Amendment has been violated or not. The court will interpret unreasonable seizures and search.

The court will make sure that the personal property, liberty, and right of the offender is not been effected. The unreasonable seizures and searchers are prohibited according to the fourth amendment and the evidence gained as a result of those is not considered as valid.

The court has interpreted the rule of the exclusionary rule as something that is not for the protection of the citizens’ rights but for deterring the misconducts of the police. The basic principle of this rule is that it justifies the ends with the help of the means to reach them. If the evidence got by the violating the right of the citizens then that evidence are poisonous. The exclusionary rule is focusing on the misconducts of the place and it might let the offender go freely without reaching to the reality of the crime.

So the court must take this into consideration that the right of the citizen must not be violated either the evidence should be rejected that is necessary to the roots of the criminal actions. Police need to issue a warrant against any individual before starting an investigation so the constitutional rights of the citizens are not violated. Supreme Court of the United States should explain the domain of the fourth amendment and should secure the rights of the citizen in every possible way.

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