

## **PERSONAL PRIVACY: A FUNDAMENTAL RIGHT OR A “CREATED” MODERNIST NOTION?**

AMENDMENT IV: “The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,…”

AMENDMENT V: “...nor be deprived of life, liberty, or property, without due process of law;…”

AMENDMENT I: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech,…”

AMENDMENT IX: “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.”

AMENDMENT X: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States; are reserved to the States respectively; or to the people.”

AMENDMENT XIV: SECTION 1. “...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.”

In the partisan debates that have ravaged recent political campaigns, congressional appointment hearings, congressional posturing, citizen complaint/petitions, and media “blitzes”, the axial argument continues to focus in upon privacy rights. Do two individuals of the same gender possess the fundamental right to exchange marital vows? Does any individual have the sole right to determine just what she may do with her body (viz., terminating a pregnancy, refuse “heroic” medical care to extend life)? The “fallout” in this debate easily extends into the public school classroom (what may be taught or discussed from Planned Parenthood, to safe sexual practices, to evolution, to literature, to history) and the science lab (stem cell research).

As a group you are to develop a theory that will define “fundamental” privacy in a way that is consistent with the philosophical foundations of this country in conjunction with historical precedent (judicial and social). Your theory ought to engage the following questions.

- **In what ways is privacy an issue that separates a constitutionally created polity from the “state of nature?”**
- **Is the concept of the “autonomous” person consistent with a civil state in which human life is not only protected, but is assured dignity?**

- **Immutable differences are biologically and genetically formed; can the civil polity expect to regulate the actions of those differences (May we regulate whether a blind person might be licensed to drive a taxi? May we regulate whether an epileptic be a fighter jet pilot)? In what ways might sexuality create a separate consideration in terms of “equal protection?”**
- **In what manner can we understand the right to regulate morality without violating the first clause of the first amendment?**
- **Might the Preamble of the Constitution shed a penumbra on the issue of personal privacy?**
- **At what point does the judicial refereeing on the issue lead to the potential of the government becoming the sole adjudicator of our persons?**