

Gateway to Secrecy

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Circling the grave of America's forefathers, the guardians of the Constitution's traditional values limit contemporary society. Being an ever-evolving behemoth, technology revolutionizes society, yet the Constitution seems to be the only exception. The case of *Parks V. McCormack*, which saw innocent Nijeer Parks wrongfully arrested due to faulty technology, demonstrates how modernized technology and antiquated constitutional rights mix like oil and water. It's a given that technology is here to stay. Instead of clashing with this ideal, the Constitution must grow alongside it to build a sustainable future. By accounting for privacy, the Constitutional law can develop to address evolving technologies and their effect on individual lives, ultimately aiding societal advancements in forming a stronger nation.

Historically, the relationship between technology and the Constitution has been shaky at best. Astounding technological advancements translated to horrific consequences for American citizens; to the American government, the stride for national security justified many invasions of privacy. In the early 20th century, the ruling of *Olmstead v. The United States* shook the nation; wiretapping wouldn't be considered a violation of the Fourth Amendment as no physical intrusion occurred. With the boundary being set at "physical intrusion," imagine the extent to which spyware could have slipped by in today's society, where almost every significant record is stored online. Still, such disastrous events never occurred, thanks to the ruling of *Katz V. United States* about a half-century later (individuals had a right to privacy even within public spaces).

So, the United States already sees a stark contradiction. Was American safety worth violating American citizens' safety? If so, wouldn't the government be the very entity deemed "dangerous" to American citizens? This issue was further complicated with the addition of

technology, where keeping tabs became much easier, and the issue of privacy grew proportionally more important to citizens. Though digital, privacy is still privacy: it's an individual's right to want unadulterated personal privacy. So, how should the Constitution protect privacy?

The answer is to treat digital data as personal property. The Fourth Amendment, focused on search and seizure, protects citizens against unwarranted intrusion by the government. Naturally, with new ways to generate personal information through the online dimension, the government has equally new avenues that potentially threaten the security of that information. So, when considering the Fourth Amendment, including technological data in the list of 'impregnable' information should be a given. This would protect citizens by limiting the powers of the government, thereby adjusting to the drastic growth of society.

One could argue that this change would be a detriment to law enforcement, as they'd lose valuable access to criminal-catching information. While it's true that digitalization has helped law enforcement, it has conversely also caused many false accusations that contaminate society. In the case of *State v. Loomis*, African American Eric Loomis was deemed a 'high risk' and consequently given a relatively unwarranted sentencing all because of his race. The catch? This sentencing was done wholly by AI, implying that the faulty technology didn't consider individual conditions, but instead identified whole patterns based on digitized data. Nonetheless, no two cases are the same; technology that can't differentiate between a crime or mistake, offering distinct forms of punishment each time, only hurts citizens. Moreover, if the point of AI, broadly noting technology, is to better society, why, disillusioned with the American legal system, do certain groups get unfair treatment? Such questions, remaining unanswered and mulled over, testify to the uneasiness of evolving technology in the hunt for wanted individuals.

Safeguarding citizens' digital privacy will forge a better society by repairing the relationship between individuals and the government. Within the original Bill of Rights, the First through Eighth Amendments each safeguard fundamental rights that protect individuals within society. The Fourth Amendment is no exception; by allowing the protection of property, the government can't rob anyone blind without a compelling reason. It's imperative to understand that throughout history, laws have often pitted the government against its very own people. The Red Scare's fearful policies, the Soviet Union's Great Purge, and China's Cultural Revolution were all times when the government tried to limit the possibilities and freedoms of its citizens. These instances all had one conclusion: the citizens' sense of unity overpowered the government's tyranny, and, however arduous, the 'proxy war' would be won by the people instead of the core government, resulting in extreme reforms to ameliorate tensions. Knowing this, it should be evident to any government why clashing with its citizens is a bad idea. Such is no different in the case of the United States of America. By agreeing to protect citizens' property in the digital era, society's delicate ecosystem can be carefully maintained. That means, though ancient, the original Bill of Rights can still be applied to contemporary issues, thereby hitting two birds with one stone: modernizing the government and pacifying relations with citizens.

The rapid progression of technology requires a society to have a government that can parallel its growth. Regardless of governance, technology will continue to evolve. Therefore, a government that lags behind- will only result in animosity between the citizens and the government, two sides of the same coin. Both of these groups want the same thing, yet the reason they can't achieve that without hurting the other. Granted, many advancements (not limited to only technology) have come from defying the substantial powers from above. Yet, still there

seems to be an even more impressive solution. The common adage, “two heads are better than one,” represents the theme of unity. By coming together, two groups can surpass any obstacle. Why should this not apply to the realm of the Constitution? Assuming the government reaches a compromise with its citizens about the privacy of digitized data, the main issue will be resolved. That solution starts with accepting that as the world changes, the Constitution has to change with it. Reaching a compromise entails protecting the privacy of citizens’ online data up to the point where the data can’t be reasonably suspected. After that point, the data is free for the government to use as they please, similar to physical property. Centuries ago, citizens and governments colluded to form a compromise resulting in the Constitution, then performed that herculean task all over again with the Bill of Rights. Like the forefathers of America, citizens of today can aspire to reach similar levels of compromise, entailing societal welfare.

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