There are many misconceptions about the rights of undocumented immigrants in the United States. However, the Supreme Court has upheld that certain constitutional rights extend to every person living in the U.S., regardless of their legal status. Here is a break down of some of those rights.

**Fifth Amendment:** Right to Due Process

“No person ... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.”

Due process means that a person cannot be deprived of their legal rights without proper application of the law. Every person in the U.S. includes undocumented individuals, has a right to legal counsel in criminal, agency, and administrative matters. A person’s lack of status does not stop them from filing a suit or defending themselves and their property without due process of the law.

**Sixth Amendment:** Right to Legal Counsel

“In all criminal prosecutions, the accused shall ... have the assistance of counsel for his defense.”

Under this protection, someone accused of a crime can hire a private attorney, if they can afford one, or they can obtain a court-appointed attorney to represent them. Similar to the right to due process, this right extends to all individuals in the U.S., regardless of their legal status. Unless an individual chooses to represent himself or herself, it is unconstitutional to prosecute a defendant without offering the right to a lawyer. However, the right to counsel is limited to certain crimes. Undocumented immigrants facing deportation are not guaranteed the right to legal counsel because immigration proceedings are not criminal proceedings.

**Fourth Amendment:** Right Against Unreasonable Search and Seizure

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”

An unreasonable search or seizure occurs when a law enforcement officer seizes your person or your property without a constitutionally permissible reason or warrant. The right to protest this type of search can be extended to undocumented immigrants. If an agent reasonably believes an undocumented or otherwise, he is protected against unreasonable searches and seizures.

**Fourteenth Amendment and Plyler v. Doe:** Right to Education

“No State shall ... deny to any person within its jurisdiction the equal protection of the law.”

There is no express “right to education” within the Constitution. However, in Plyler v. Doe, the Supreme Court held that states must provide elementary and secondary education to free, public education because of their immigration status. The Court reasoned that there was no rational basis to deny public education to children as education, thus denial of access to education was unconstitutional.

**REFERENCES**

1. U.S. Const. amend. x
2. U.S. Const. amend. v
3. U.S. Const. amend. iv

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