

Accessing and Safeguarding Due Process of Law

Our Constitution was designed to make sure the government does not wrongfully interfere with a citizen's rights to life, liberty, and pursuit of happiness. The framers of the Constitution had just emigrated from a country ruled by a monarch, and wanted to provide citizens a government that was not so intrusive. So the framers came up with a principle called, "due process of law," which was later implemented into the Constitution to give citizens "notice and a right to be heard" before the government could take away rights.

Since the drafting of the Constitution, the procedures of due process have mostly provided the protections ensured. Therefore, in my government I would keep our current protections in place but also make some needed changes. Due process is most effective when it is accessible to everyone, and when the governing body conducting the hearing is unbiased and free from government influence.

In my government I would ensure the protections of due process are available to everyone. In its current form, a person's opportunity to be "heard" is related to their ability to pay. Attorneys are expensive and a person without money cannot take advantage of good representation, which means the chance to be "heard" is somewhat fictional. In a criminal case, a defendant unable to pay for an attorney will be provided a public defender. Public defenders are often very busy and unable to provide the defendant defense equivalent to that of an outside attorney. In criminal defense, due process is critical to prevent wrongful government interference to life and liberty. Therefore, in my government I could make sure defendants receive strong representation. In order to provide strong representation I would take money from less critical areas in the government and put it towards hiring more public defenders while increasing their salaries.

In civil law, there are no government provided attorneys. As a result, persons unable to pay for independent attorneys will not be able to participate in a civil lawsuit. In my government, I would put in place programs that would allow people to resolve civil issues through less costly procedures. I would implement a full-scale system of low cost Arbitration, increase the use of Small Claims Courts, and mandate a minimum of pro-bono work to encourage private attorneys to provide low cost services for individuals with valid claims but without resources to participate in civil law.

Due Process also requires independent review of the government interference. Today, millions of employees rely on the government for their paychecks, and, because of that, there is a danger that those same people may hear your case and act in favor of the government. Notice and a right to be heard must guarantee that at the hearing the person whose rights are being affected will get a fair hearing. In my government I would continue to provide oversight by a jury of everyday people whenever possible. However, I would also use technology to further discourage government bias. I would require video and audio cameras, in courtrooms, at all hearings, in police cars, and on police officers.

For over 200 years some of the greatest legal minds have developed a strong system of Constitutional due process. In my world I would allow additional protections. My government would provide the benefits of due process to everyone regardless of income. My government would also make sure that due process is not wasted or tampered with, and free of government interference. With improved accessibility and greater safeguards we can move closer to what the founding fathers envisioned of “notice and a right to be heard”.

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