Law of criminal procedure

Due Process and why is it needed

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**Introduction**

Procedural due process is defined as a constitutional requirement that traces the actions of the federal government when their outcome is assumed to deny the life of a citizen, liberty, property, interest and the opportunity to be shared by the state. It also reflects the ideology that a person should be given the notice and all decisions should be made in accordance with the neutral decision-maker. Due Process is a legal requirement according to which a state must respect all the legal rights that are owned by an individual. It is a beam balance that stabilizes the power of the law of land and ensures protection for the individuals. In a nutshell, due process is authentication and verification of the rights of citizen, which is violated when a state takes actions that can harm the rights and the life of a citizen.

**Discussion**

One word that can best describe due process is, "fairness", taking into account that it acts a lifeboat and the insurance of the security of the rights of the citizens. Due process is one of the two major components of the procedures that is accompanied by the substantive due process. In accordance with the United State constitution, it is found that the phrase, "due process" appears twice. Once in the Fifth Amendment and then in the Fourteenth Amendment, both the amendment’s guarantee due process whenever someone is denied in terms of property, life, and liberty (Richardson, 2019).. It is one of the most important and fundamental rights that every individual have, "due process" has been highlighted in all the sectors and dimensions of life. A common example of due process is a scenario in which an NFL layer is facing suspension or there is any individual who is facing child abuse. In such a case, due process should be incorporated before a player loses his job or a child suffering from child abuse is recovered. In case an individual is charged with a crime, the authorities that are responsible to protect the rights and values, from the right to *counsel to the right* that asserts to remain silent to the *right to jury* that would protect law all fall under the umbrella of "due process". In a simplified form, due process is designed to protect the criminal defendant from any kind of prejudice and passion along with a justification that every individual who is facing prosecution by the state has the ability and a complete right to mount a full and complete defense.

**Significance of due process**

An exegetical analysis of the due process highlights that the Fifth Amendment to the constitution highlights that no person in the city or state would be deprived of the basic rights such as liberty, property, and life. In accordance with the fourteenth amendment, it is highlighted at the same protection would be transformed into actions for the state (Carp, et al, 2019). However, other due process clauses are also found in the amendments in the Bill of Rights that address specific elements of due process. Major due process as mentioned in the Six Amendment are, right to speedy trails, public trails, unbiased tribunal, and impartial jury, full notice rights and the explanation of the charges that are imposed on an individual. Other major due process asserts, right to counsel, right to confront and cross-examine the adversity of witnesses and the right to compel favorable witnesses to appear. In a nutshell, Due process is a major process that ensure the safety of the rights of the general public. However, there are certain major points to consider.

**The principle of Fundamental fairness**

An exegetical analysis of the legal affairs and the constitutional affairs highlight that the court has already mentioned the guarantees of the Bill of Rights in the fourth, six and fifth and eighth amendment. All these amendments are considered as fundamental to the state criminal justice system along with the analysis of the fact that the negation of one or the other particular certifications that denies a suspect or a defendant violates the clause of due process of the law counted under the Fourteenth amendment (Patti, 2019). In addition to it, Due Process is more like a protection against the practices and the policies that abolishes the precepts of fairness, taking into account that it is applicable even if there is no specific violation of the guarantee of the Bill of Rights. The standard query of this ideology highlights the cases in which either practice is challenging or the policy is violated. So, due process act as a provider of the principle of fairness which inheres in the idea that government should be free in its actions and it is one of the inalienable rights of citizens of such government. It also determines the ideology of the historical components that ensure the safety of the rights of the women.

**Initiation of the Prosecution**

Due process is required for the initiation of the prosecution taking into account the indictment by a grand jury. However, due process requires, whatever is the procedure, the defendant must be given proper notice in terms of the crime that is charged against him or the actions for which he has to be jailed. Here, it is asserted that the role of due process is to ensure the issuance of the notice so as to make a prosecution free from the prejudicial influences and the case can be solved with fairness.

**The doctrine of Void-for-Vagueness**

According to the legal proceedings, the criminal statutes lack sufficient definiteness or any specificity that is called "void for vagueness". Such legalization may be an afoul of due process because it does not provide adequate guidance for those who would be abiding by the law. This doctrine helps to advice defendants to know the nature of offense that is charged on them and guide them about the court procedures (Garrett, 2019). It also defines court about action to do because in a number of situations, a statute may be unconstitutionally vague because a statue is worded in a standardized way that could invite arbitrary enforcement. In the context of the laws that are made to define criminal offenses, due process plays a major role in keeping up a back up to the future actions as well as it provide guideline to the current procedures so as to provide sufficient definiteness that can help ordinary people to understand which conduct is prohibited and what is the manner that does not encourage arbitrary and discriminatory enforcement.

**Entrapment**

There are certain criminal offenses in which consensual actions are taken between the willing parties and the problems that the police face in the investigation. In such situations, due process is required and needed to supervise the authority of federal courts to deter any misconduct by the police that may pave the way for merely statuary construction. Due process is required to deter criminal behaviors and other misconducts that can encourage the public to engage in any kind of criminal behavior such as contraband or selling drugs.

**Criminal Identification Procedure**

Due process is required to identify criminals by taking into account that there are many criminal trials in which the reliability and the weight to be accorded to the eyewitness identification are left at the end of the jury to decide. Identification of criminals is actually guided by the instructions that are given by a trial judge and is subject to judicial prerogatives under the impact and influence of the rules of evidence capable of focusing on the relevant evidence. It is asserted that the relevant evidence can be substantially outweighed by the prejudicial impact and other impacts that can be misleading (La Raja, et al, 2019), There are a number of cases in which a defendant is alleged with an out of court identification when the police was on that point, in such a case, the identification is flawed by the impact of inadmissible scenario, as a matter associated with fundamental justice empowered by due process. It is asserted that the court generally disfavors judicial suppression of the identification of eyewitness as due process is grounded in the lieu of having identification testimony that is verified or examined in the course of the adversarial process. Here due process comprise of the elements of suppression that helps in the clarification of the facts and figures that can empower scenarios.

**Fair Trial**

One of the significances of due process is a fair trial, taking into account due process of is needed to ensure that all the criminal proceedings should be favorable and fair. It is added that fairness should be relative it is not something absolute, Due process ensures that what is fair on one set of clues ad situations may be considered as an act of tyranny in other cases. Similarly, fair trial is defined as something that is applied to a criminal trial, where negligence of the due process is the failure to use fundamental fairness which is one of the essential concepts of justice. It is also asserted that the due process is also violated with the inclusion of biases and other partial jurors where there is no presumption that all jurors with any kind of bias are prejudiced.

**Prosecution Misconduct**

Due process is used to address prosecutorial misconduct, taking into account that when a conviction is retrieved by the presentation of testimony that is termed as prosecuting authorities to have shown prejudice, in such a scenario, due process is violated. It is directed to the analysis of the clause, "cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trail which is true in its nature but used as a means of depriving a defendant of liberty".

**Proof, Burden of Proof and Presumption**

Due Process is essential for the analysis of proof, burden of proof and the stance of presumption that is made about proof. It has been inferred that the "reasonable doubt" was one of the proper and effective standards of criminal cases. In accordance with the definition of due process in the Due Process Clauses of the fifth and fourteenth Amendment, the proof is one of the stances that are applicable to every criminal and it is one of the constituents of the crime with which he is charged.

**Guilty Pleas and Sentencing**

Due process is necessary for guilty pleas taking into account that a prosecutor would deny the due process if he penalizes the assertion of a right. It also asserts that due process would be violated if a prosecutor assert any of the privilege by the defendant by charging him more severely and recommending a lengthy sentence. Moreover, due process also empowers and criticizes sentencing, it determines the scenarios of sentencing by protecting basic rights.

**Conclusion**

In a nutshell, due process is a code of conduct that not only protect human rights but acts as a guideline for legal authorities to proceed with criminal justice actions.

References

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