

Difference Between Due Process Of Law And Procedure Established By Law

The interrelated terms procedure established by law and due process by law has some differences too. The most important difference between procedure established by law and due process of law is the provision of a chance for the citizen to be heard and protect their rights. The procedure established by law is mentioned in Article 21 of the Indian Constitution. Check here the essential points highlighting the difference between due process of law and procedure established by law.

Procedure Established By Law Vs Due Process Of Law		
Law Term	Procedure Established by Law	Due Process of Law
Doctrine Scope	Under this doctrine, the law is valid only if the procedure is followed.	Under this doctrine, the rights of the citizen are protected.
Process	Follows the process of law	Checks on the fairness of the law
Origin	Originated from the British	Originated from the Western Constitution of the United States.
Mention in the Indian Constitution	This term is introduced in Article 21 of the Indian Constitution	Not explicitly mentioned in the Indian Constitution

What Is Procedure Established By Law?

A procedure established by law is a law that is valid only when it complies with the prescribed procedure. Following this law meant that the individual could be deprived of personal liberty. The term was used in Article 15 draft after the discussion of eminent advisors.

The judgment in the Maneka Gandhi Vs Union of India case brought a shift to this law. The difference between due process of law and procedure established by law was realized during the hearing of this case. Judicial activism emphasized giving more meaning to the term procedure established by law.

In this case, the passport of the petitioner was confiscated without prior notice. Following this, the scope of Article 21 was expanded, along with the right to travel out of the country. The demand was to make Article 21 fair, reasonable, and just. This made way for procedural due process along with the establishment of links between Articles 19, 14, and 21.

What Is Due Process Of Law?

The Due process of Law is an American concept taken from the Magna Carta clause 39. This doctrine sees that the law is fair and that the law deprives a person's liberty. Under this doctrine, if the Supreme Court finds that the law is not fair, it can declare it null and void. Sir B.N. Rau, the Constitutional Assembly Advisor and Frankfurter J. from the United States of America Supreme Court expressed their concern about using the due process clause.

The term due process involves a fundamental prerequisite of providing an opportunity to be heard. Justice Krishna Iyer equated the procedure established by law and the procedural due process and mentioned that an orderly process involves being heard and for the law to be just and fair.

