Due Process Kolin Krewinkel, Ben Saxe, Katie Reddick, Amanda Starsiak, Jared Maranon

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“I was held for seven years without explanation and freed only after the Supreme Court stepped in.” Lakhdar Boumediene describes his experience in the Guantanamo Nightmare, and in many other cases the U.S. courts also deprive citizens of due process. Due process is the right to be treated fairly by the government, and if accused of a crime to be given rights to know what is being charged, and have a jury. The amendments guarantee due process but even today the government sometimes fails to give people these rights. Citizens of the United States are guaranteed due process throughout the evolution of the Constitution, despite lapses that have tolerated mistreatment though today.

In the United States, due process is guaranteed through the 5th and 14th amendments to the Constitution. Derived from the Magna Carta, the Fifth Amendment guarantees citizens’ rights against legal and governmental authority. Stating that the government shall not deprive a citizen of any rights without due process of law, the Fifth Amendment prevents power abuse and unjust punishment for the accused. Fought for in both early England and young-America, these rights form an integral part of our guaranteed set of rights. Secondly, the Fourteenth Amendment was part of a series of amendments from the Reconstruction era. Because many local courts were declaring many forced workers “non-citizens,” the North was forced to install provisions in the form of new amendments. These amendments provided the same Fifth Amendment rights to local courts. These amendments resulted positively, protecting many previously abused African-Americans. Though there were still incidences, it still formed a solid legal foundation. Now, in modern times, loopholes have been closed, better protecting our rights.

Due process rights have also evolved and grown through court cases brought to the Supreme Court. For example, the “Miranda Rights” were created after the 1966 Supreme Court case *Miranda v. Arizona*. In this case, Ernesto Miranda was arrested after the victim of a crime identified him, however, the police officers that interrogated him did not inform him of his Fifth and Sixth Amendment rights, so Ernesto confessed to the crime. The Supreme Court ruled in Miranda’s favor, establishing the “Miranda Rights”: the right to remain silent during interrogation, to have an attorney present at any questionings or interrogations; and the accused will be provided an attorney free of charge. A year later, in 1967, a case titled *In re Gault* changed the rights that juvenile courts are required to give young people. Originally, young people in juvenile courts were denied the right to a court-appointed attorney, a written record of the proceeding, and the right to appeal the juvenile court judgment, as well as several other rights that adults had previously enjoyed. The Supreme Court sided with Gault, allowing juvenile courts to make their procedures fairer to. This case was extremely important because it allowed young people to have more rights. Gault and Miranda showed a growth of the right to due process in the United States.

Due process is controversial, especially during times when the nation is threatened. On September 30, 2011, our government killed a Muslim-American citizen named Anwar al-Awlaki; officials had quietly decided that he was a target after they gathered evidence he had fought alongside Al Qaeda. In normal cases, a trial would be required before an execution could be carried out. However, this can almost be looked at as a time of war. It is a perplexing case because he was a citizen guaranteed due process through the Constitution. Another instance where the idea of due process is questioned occurred recently, on May 19, 2012. The house proposed a bill that would allow any person suspected of terrorism to be locked up without a trial. The issue was brought up when a federal judge struck down a law that allowed just that. It was declared unconstitutional, but soon after, the House voted to keep the law active. They won on a 238-182 vote, however, the bill still needs to go to the Senate. This is one of the times where the idea of due process is being overlooked if someone is suspected of harming the nation. Consequently it becomes prominent in how the interpretation of due process isn’t fully developed.

Our nation’s government must follow due process so the law is protected from any rogue judge or decision maker. If due process was not a general law then many people could be convicted just from the decision of one judge. Over time, there have been incidents where many cases have broken out of the lines of due process, but it has never been out of control. Without due process, the United States, as we know it today would not be the same. Examples of the lack of due process include cases such as the *Guantanamo Nightmare*, demonstrating incidences where due process was necessary, but lacking. Due process is a law that signifies the fairness between people; that is why now, in the United States, we need due process to protect us from tyranny.