

Due Process in the Age of Imperialism

By Hassan Shabazz
Dillwyn Correctional Center
Buckingham County, Virginia

According to The American Heritage Dictionary, "Due Process" is defined as "An established course for judicial proceedings or other governmental activities designed to safeguard the legal rights of the individual."

"Imperialism" is defined as "The policy of extending a Nation's authority by territorial acquisition or by the establishment of hegemony over other nations."

The United States Constitution is a beautifully written document, but it is ultimately an elitist one. Among many of the alleged rights that are provided in the U. S. Constitution to those who are citizens is that of the Procedural Right to Due Process. This procedural liberty states that you will not be deprived of life, liberty or property without due process of the law.

Yet a "procedural" liberty is not a "substantial" liberty. While guaranteeing you the right to go to court, to be heard by a jury of your "so-called peers," and so forth, it does not guarantee freedom from hunger. It does not guarantee housing, health care and true education. It does not guarantee full employment, safe working conditions, a non-polluted earth, nor true equality and equal distribution of resources.

The Constitution guarantees us certain procedural rights and rules which state to us that we can go to court just like rich folks, and even be read our Miranda rights, but if we don't have money, or if we belong to the wrong ethnic group or class, while we may go through procedure, that does not translate into justice.

I was once told by a Federal District court clerk that, "Fairness is due process, but justice is judicial discretion." The result is that the justice and legal establishments become the very sources of injustice and illegality.

We are therein faced with a contradiction wherein the very law and order that is written into the Constitution becomes a double standard. With this we can see that the Constitution and the legal system in this society are not neutral instruments. Rather, the law belongs to those who write it, and to those who use it to control the resources of a society.

This type of contradiction breeds a disrespect for the law, and a disrespect for those who enforce it. It doesn't matter if the law is written in neutral terms. What really matters is if the law is enforced non-discriminately; and this society is famous for writing beautiful laws which are enforced in a non-equal fashion. Those who enforce the law have discretion in enforcing the law and can determine when and under what circumstances the law will be enforced, and against what people, regardless of how that law is written.

Now, when we look at this in reference to imperialism, we see that under the guise of defending democracy the very same agencies of our national legal departments trample upon such procedural liberties to maintain the status quo. To maintain control, they create a system that oppresses you, gives you the procedural right to address that oppression and may even give you relief, and then congratulates itself by saying: "Oh, the system works, doesn't it?"

Yes it does, because the going-through of the very procedure intimidates the people, and that makes them conform. This creates the hegemony needed within the country to embark upon imperialism beyond its borders.

The truth is that due process is an illusion which only becomes real when those in control choose to enforce it. Until the people obtain control, due process will continue to remain a distant reality.