

Difference Between Procedure Established by Law and Due Process of Law

The “Procedure Established by Law” means that a law is duly enacted by the legislature or the concerned body is valid only if the correct procedure has been followed to the letter.

The concept has been enshrined in Article 21 of the Indian Constitution, which states that “No person shall be deprived of his life or personal liberty except according to the procedure established by law”

“Due Process of Law” is a doctrine that not only checks if there is a law to deprive the life and personal liberty of a person but also ensures that the law is made fair and just.



Analyze the Difference Between Procedure Established by Law and Due Process of Law

PROCEDURE ESTABLISHED BY LAW

LESS SCOPE

CORRECT PROCESS

ORIGINATED FROM THE BRITISH CONSTITUTION

DUE PROCESS OF LAW

LARGE SCOPE

CHECKS THE LAW

ORIGINATED FROM THE UNITED STATES CONSTITUTION

Both are important concepts in the Indian polity segment of the IAS Exam. Thus, it is important to know how the two are different from each other, which this article will aim to highlight.

The differences between 'Procedure Established by Law' and 'Due Process of Law' are given in the table below:

Differences between Procedure Established by Law and Due Process of Law	
Procedure Established by Law	Due Process of Law
It means that a law that is duly enacted by the legislature or the body in question is valid if the procedure to establish it has been correctly followed	Due process of law checks whether any law in question is fair and not arbitrary
The Judiciary would assess whether the Legislature is competent to frame the law and whether it had followed the procedure laid down to legislate and would not assess the intent of the said law	If the Supreme Court of India finds any law as not fair, it will declare it as null and void. This doctrine provides for more fair treatment of individual rights
Compared to 'due process of law' it is narrow in scope as it does not question whether the law concerned is contrary to principles of justice and equity	The due process of law gives wide scope to the Supreme Court to grant protection to the rights of its citizens.
The Supreme Court, while determining the constitutionality of the law examines only the substantive question i.e., whether the law is within the powers of the authority concerned or not.	The Supreme Court can declare laws violative of fundamental rights and render them void not only on substantive grounds of being unlawful but also on procedural grounds of being unreasonable.
A rigid and inflexible following of the procedure established by law may raise the risk of compromise to life and personal liberty of individuals due to unjust laws made by the law-making authorities. Thus, Procedure established by law protect the individual against the arbitrary action of only the executive.	Under due process, it is the legal requirement that the state must respect all of the legal rights that are owed to a person and laws that states enact must conform to the laws of the land

