

# BOB AVAKIAN ON THE LAW, JUSTICE, AND ENDING OPPRESSION AND EXPLOITATION

Bob Avakian grew up in Berkeley, California in the 1950s at a time when segregation was being challenged in the courts and in the streets, and the issues of inequality and racial discrimination were being debated throughout society. His father was a lawyer and later a Superior Court judge, and Bob Avakian was raised in a family where discussions of legal cases, constitutional rights, and the judicial process were a staple of dinner time conversation. Not only did this upbringing shape his early political awareness and passion for social justice, but this informal legal training gave him a keen appreciation for legal principles. This developed into a lifelong interest in the law and in jurisprudence (the science and philosophy of law).

Bob Avakian came alive as a revolutionary in the 1960s—taking part in the great movements of those days. As he came to the recognition that oppression and exploitation were woven into the fabric of the current capitalist-imperialist system and could only be abolished through communist revolution, he also came to see that social justice could never be achieved within the confines of the existing legal system that serves capitalism-imperialism. At the same time, he has maintained his passion for fighting against social injustice, and for the rights of the people targeted by the state and its repressive apparatus, within the confines of the current capitalist system, while linking this to the more fundamental struggle to abolish this system and bring into being a system whose aim is to eliminate and uproot social injustice and all oppression and exploitation.

Bob Avakian has spent decades summing up the positive and negative experience of the communist revolution so far and drawing on a broad range of human experience to develop a new synthesis of communism—popularly known as the “new communism”—a consistently scientific method and a vision and strategy for a new and much better society and world. In his talks and writings on this subject of law and rights, Bob Avakian brings a sweeping sense of history and the development of human society to his analysis of the economic, philosophical, and political underpinnings of the legal system in today’s capitalist society and the role that this legal system plays in reinforcing oppressive and exploitative relations.

In comparing and contrasting the concepts of Constitution, law, and rights under both capitalism and socialism, Bob Avakian highlights the profound differences in social content and role. His vision of the legal system and fundamental rights under socialism draws from, but also represents in significant dimensions a radical rupture with, the past historical experience of socialist states in the legal sphere and reflects his re-envisioning of the character of the future socialist society as one qualitatively more lively and vibrant than ever before. A living sense of this is contained in *Constitution, Law, and Rights—in capitalist society and the future socialist society, a selection from the writings of Bob Avakian*, and it is spelled out fully in the *Constitution for the New Socialist Republic in North America*, authored by Bob Avakian. In this regard, the following sections of this Constitution are of particular interest: “Justice and the Rights of the People” (Article I, Section 2, D); Article III, “Rights of the People and the Struggle to Uproot All Exploitation and Oppression,” in particular Section 2, “Legal and Civil Rights and Liberties”; as well as Article I, Section 3, “The Judiciary and Legal Adjudication.”

Bob Avakian is also the author of the following provocative statements with regard to the law.

**The denial of bail, including for the most serious accusations (or charges), is in contradistinction to—is fundamentally in conflict with and hostile to—the presumption of innocence.**

**There is—or there should be—no such thing as “victims’ rights,” particularly as applied to criminal proceedings.**

The criminal legal process is not—or should not be—a contest between individuals but a confrontation between the state and people whom the state seeks to deprive of freedom on the basis that they have violated societal norms that are embodied in criminal statutes. The whole point of a legal system is, or should be, to remove disputes or perceived wrongs from the sphere of individual grievance—and the corresponding attempts to settle such grievance through individual acts of revenge or reciprocal wrongdoing—by providing a

(over)

framework in which society, through established institutions and statutes, which are to be applied and work equally in regard to all, can adjudicate such disputes or claims of wrongdoing. The concept of “victims’ rights,” particularly as applied to criminal proceedings, is not merely in opposition to what should be the purpose and effect of the law—and is not merely a sham—but is an undeserved tool strengthening the prosecution, an illegitimate weapon in the hands of the state, adding unjustly to the already existing imbalance of power it possesses, as the state, in its confrontation with those individuals it seeks, rightly or wrong, to deprive of freedom. The essence of legal rights, particularly with regard to criminal proceedings, is—or should be—the provision for a fair process for people who are accused by and are forced to confront the state in situations where the state is seeking to deprive them of their freedom.

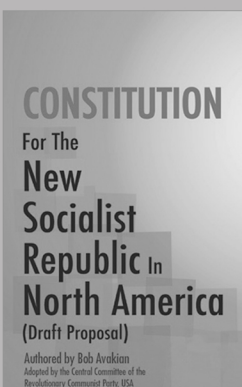
**The practice with regard to trying juveniles as adults is completely upside down and contrary to elementary logic. This is also the case with the way the statute of limitations is applied.**

The whole point with regard to juveniles and the law, and specifically what is—or should be—the treatment of juveniles in regard to alleged violation of that law that is different from how this is approached with regard to adults, is that juveniles do not have the same developed capacity as adults to make judgments, including those regarding the effect and consequences of acts which may be against the law. This basic principle should be applied apart from the question of how serious the alleged crime is, which should in no way negatively influence the basic logic and justness of trying juveniles differently than adults and punishing them differently if convicted. Or, in fact, if the seriousness of the crime should be considered at all, it should be according to the principle that the more serious the crime, and correspondingly the greater the consequences of conviction, as an adult, the greater the argument against trying juveniles as adults.

The point of the statute of limitations is not to set a time limit after which people can “get away with having committed a crime.” Rather, it is that, after a certain period of time, it becomes increasingly difficult, if not practically impossible, to have a fair trial, since evidence (including but not limited to the memory of possible witnesses), becomes irreparably tainted and/or much more difficult, if not impossible, to refute. And, since the more serious the crime, the greater the punishment, greater concern and care should be taken not to have a trial in which the accused could face conviction, and a greater punishment, on the basis of a process (a trial) vitiated by the passage of time. Hence, all crimes should have a statute of limitations—and the more serious the crime, the shorter, not the longer, should be the statute of limitations.

Both of these upside-down and backward practices—with regard to trying juveniles as adults and making the statute of limitations longer (or eliminating it entirely) for more serious crimes—are once again undeserved tools strengthening the prosecution, illegitimate weapons in the hands of the state, adding unjustly to the already existing imbalance of power it possesses, as the state, in its confrontation with those individuals it seeks, rightly or wrongly, to deprive of freedom.

**Even with the profound differences between socialism and capitalism—with regard not only to the law but the fundamental relations, aims, institutions, and functioning of society—these basic principles of jurisprudence apply (or should be applied) not only under the current system of capitalist rule but in socialist society as well.**



Bob Avakian on the

*Constitution for the New Socialist Republic in North America:*

**It is a fact that, nowhere else, in any actual or proposed founding or guiding document of any government, is there anything like not only the protection but the provision for dissent and intellectual and cultural ferment that is embodied in this Constitution, while this has, as its solid core, a grounding in the socialist transformation of the economy, with the goal of abolishing all exploitation, and the corresponding transformation of the social relations and political institutions, to uproot all oppression, and the promotion, through the educational system and in society as a whole, of an approach that will “enable people to pursue the truth wherever it leads, with a spirit of critical thinking and scientific curiosity, and in this way to continually learn about the world and be better able to contribute to changing it in accordance with the fundamental interests of humanity.”**

Read it at [TheBobAvakianInstitute.org/constitution](http://TheBobAvakianInstitute.org/constitution)

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