



THE IMPORTANCE OF NATURAL JUSTICE THAN INJUSTICE THROUGH ADMINISTRATIVE PRINCIPLES: A STUDY

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Introduction

Natural justice is a principle that intends to ensure law with fairness & to secure justice. So, the principles of Natural Justice are made to ensure that the decision-making processes are transparent & impartial, and are also based on evidence and hence should be fair. These principles are not defined in any statute but are still accepted & are enforced. In simple terms, the principles of natural justice mean the principles relating to the procedures required to be followed by the authorities entrusted with the task of deciding disputes between the parties.

The principle of natural justice defines two principles:

1. *Audi Alteram Partem* which means 'no one can be left unheard': It basically means that the court should hear the other party and no one should be condemned unheard. This maxim is based on the basis of the rule of fair hearing.
2. *Nemo judex in causa sua* which means 'no one can be a judge in his case': This maxim gives rise to the duty to act fairly, to listen to the arguments and to reach a decision in a manner that is untainted by bias.

Audi Alteram Partem

* The right to a fair hearing requires that individuals should not be penalized by decisions affecting their rights especially their fundamental rights unless it is done according to all the procedures established by the law in *Article 21* of the Constitution of India, that means they should be given prior notice of the case and definitely a fair opportunity to answer and present their own case.

* Notice means that before any action is taken, the affected party must be given the notice to show cause against the proposed action and the court should seek his explanation. And hearing means that a reasonable amount of opportunity to provide evidence should be provided to the person affected by it and if it is passed without providing sufficient chances the decision should be stated as invalid and must be set aside.

* The maxim *Audi Alteram Partem* is considered the principle of fundamental justice or equity or the principle of natural justice. This principle includes the rights of a party to be heard or to have a fair

opportunity to challenge the evidence presented by the other party, rights to present evidence or to have a council. The principle basically means no person shall be condemned, punished or have any property or legal right being compromised by the law without being heard. In the case of *Cooper v. Wandsworth Board of Works*, the plaintiff was a builder who was being employed to build a house within the Wandsworth district. Section 76 of the Metropolis Local Management Act empowers the district board to alter or demolish a house only where the builder was in negligence to give prior notice of building. The board without giving any further information demolished the house. The demolition of the house was considered unlawful just because the metropolitan board didn't give the plaintiff a hearing opportunity. It was clearly mentioned in the case that no one can be deprived of his/her property by an administrative authority, without an opportunity of being heard.

* In another case of *Delhi Transport Corporation V/s D. T. C. Mazdoor Congress and Ors.* in which regulation 9(b) of the Delhi road transport authority regulations confers the powers of the authority to terminate the services of an employee by issuing a notice without assigning any reasons in the order & without giving any opportunity of hearing to the employee before passing the order. In this case, a permanent employee was removed from service without assigning any reasons. It was held that the rules and regulations must be reasonable, fair & just & not arbitrary, fanciful & unjust which even violates the principles of natural justice & also Article 14 of the Indian Constitution.

Nemo Judex in Causa Sua

The maxim *Nemo judex in causa sua* is applied to the appearance of any possible bias, even if there is none for as justice should not only be done but also should be seen to be done. The legal effect of a breach of natural justice is to stop the procedures and render any judgement invalid, to be quashed or appealed but can be remitted for a valid re-hearing. The principle of the maxim is not only confined to the case where the judge is an actual party to the case, but applies to a cause in which he has a legal or pecuniary interest such that the judges deciding the matter should not be influenced by their personal interest, but to avoid the appearance of labouring under such an influence. This principle is based on the case of *Dimes vs Grand Junction Canal* in which it was held that 'the judgement was done on the grounds of interest and that the decree of the judgement was therefore voidable and must be consequently reversed'.

It is an insignificant necessity of the characteristic equity the authority giving the decision must be unbiased acting reasonably without prejudice.

The maxim ensures that the adjudicator must not have any interest or bias in the case he is deciding. Another maxim which is as same as this is as follows:

Nemo judex idoneus in propria causa est, Nemo judex in parte sua, Nemo judex in re sua, Nemo debet esse judex in propria causa, In propria causa Nemo judex etc.

In the case of *A.K. Kraipak V/s Union of India*, where the acting Chief conservator of forests was a member of the selection committee along with the members of the UPSC for the selection of the post of Chief Conservator. The court, in this case, held that there was definitely a conflict between his personal interest & the duty being cast on him so the decision so arrived was against the principles of natural justice.

- **Judicial Bias**

The rule against bias strikes against those factors which may wrongly influence a judge to arrive at a decision in a particular case which is against justice since as mentioned the judge might be having a pecuniary or personal interest. Personal interest may arise out of a personal or professional relationship of friendship or hostility between the authority and the parties. It is considered human nature that a favourable decision can be given to our friends or relatives and use it against our enemies. Pecuniary bias may arise out of any financial interest which may cause it. A solution to this is only that while the judges are performing their duties they should have no pecuniary interest in that case

because that is against the principle of natural justice since as the maxim says ‘no one can be a judge in his own cause’.

Importance of Natural Justice

Natural Justice is the concept of common law which basically means fairness, reasonableness, equality and equity in the decision-making process. The purpose of the principles of natural justice is the prevention of the miscarriage of justice. Natural Justice is important because it ensures procedural fairness and also fair decision making. The principles of Natural justice is considered the basic human right because it attempts to bring justice to the parties naturally since it has only 2 components i.e. the plaintiff should be given a chance of fair hearing and secondly the decision-maker should be free from any bias or any sort of predetermination. The main purpose of this principle is to provide equal opportunity of being heard, insure complete fairness, fulfilling all the loopholes of the law and also to protect the fundamental rights which actually mean to protect the basic features of the constitution. Natural Justice is important because it is necessary for a society governed by the rule of law that the principles of natural justice promote the notion of the rule of law. The principles of natural Justice are great as humanizing tools ensure fairness and securing justice.

Natural Justice & India

In India, there is a law that if the order passed by the original authority is in any violation of any of the fundamental right under the Constitution of India as grave error or miscarriage of natural justice, then an appeal of a remedy can be filed in the court under *Article 226* and *Article 227* of the constitution of India to interfere with the order passed by that original authority.

In accordance with the principle, *Article 14* of the Constitution also safeguards the principle of natural justice which includes both ‘*Audi alteram partem*’ and ‘*Nemo judex in causa sua*’. The article guarantees all citizens equality before the law and equal protection of the law. It hinders any form of discrimination and forbids both discriminatory laws and administrative action.

Article 311 of the Constitution also incorporates many of the features of natural justice without directly mentioning it such that *Clause 2* of the Article clearly mentions that no person can be removed or dismissed or can be reduced in his rank in which he has been assigned to except after an inquiry. Even in the inquiry, he has to be informed of the charges that have been levied upon him and that person should be given a reasonable opportunity to be heard. This principle along with those 2 maxims associated with it can also be interpreted in the basic principle that “Justice should not only be done but seen to be done”. *Article 21* of the Constitution states ‘procedures established by law’ so it can be interpreted that ‘procedures’ means everything related to a decision making that is fair decision making or no bias-ness, fair hearing. From all the articles the principle of natural justice is maintained.

In Indian law, natural justice is not directly mentioned anywhere but it can be interpreted by fundamental rights mentioned in the constitution and definitely by various case laws like the case of *Ashok Kumar Yadav vs. State of Haryana* in which it was held by the apex court that it is one of the fundamental principles of jurisprudence that no man can be a judge in their own case and the judge in the performance of that should be disqualified from his post.

Exclusion of the applications of the Principles of Natural Justice

The fundamentals of procedural Reasonableness are firstly applicable to all the Judicial & Quasi-judicial, but the judge or the decision-maker can be exempted from all that would otherwise be required. Many factors can be classified as capable of dismissing the principles of Natural Justice which may be as follows:

1. Exclusion in the cases of Emergency.
2. Confidentiality (where the disclosure or opening of anything would be prejudicial to the public interest).
3. Routine matters.
4. Impracticability (where it is impracticable to hold any hearing or appeal).

5. Interim preventive action.
6. Legislative action (In the cases of purely administrative matters).
7. No right of the person or the plaintiff has been infringed.

Conclusion

The violation of principles of natural justice is also the violation of the right to equality. If the court of law doesn't discharge its function in a just and fair manner the rule of law would lose its validity and so to protect it there are punishments such as the disqualification of a judge just so that people don't lose their hope in the court of law and in the justice. The truth is that the word justice in this country is a very elaborate conception. Applying the principles of natural justice in cases mentioned above and all the cases related to that were excluded within the exercise of statutory power but were against the principles of natural justice & were heard again. Principles of Natural Justice is never directly mentioned in the Indian Constitution but is indirectly mentioned as is there in Article 14, Article 226, Article 227, Article 311 etc.

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