

Principles of Natural Justice

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Introduction

The principle of natural justice derives from the word 'Jus Natural' in Roman law and is closely linked with common law and moral principles but is not codified. Although not provided for in the Indian Constitution, the concept of natural justice is regarded as a necessary element for the administration of justice. Natural justice in its layman language means natural sense of what is right and wrong, and is synonymous with fairness in its technical sense. In administrative discretion natural justice has a very wide application. With an act of administrative authorities it aims to prevent arbitrariness and injustice towards the citizens. In its initial phase, the concept of natural justice was confined solely to the judicial process, but with the advent of the welfare state, the powers of the administrative authorities have increased considerably as a result of which it becomes impossible for the law to determine the fair procedure to be followed by each authority while adjudicating any disputes or quasi-judicial procedures. The purpose of natural justice is to secure justice for the citizens and to prevent disregard for justice.¹

Rules of Natural Justice

Nemo Judex in Causa Sua

It means "No one should be a judge in his own case" because it leads to a bias rule.

Bias and Its Kinds

Bias means an act which leads to unfair activity in relation to the party or a particular case, whether at a conscious or unconscious stage. Consequently, the necessity of this rule is to make the judge impartial and judgment given on the basis of evidence recorded as per the case.

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¹ Legalserviceindia.com/legal/article-1549-concept-of-natural-justice.html (last accessed on 10th August, 2020)

Personal Bias

Personal bias arises from a relationship between the party and the authority that decides. This leads the authority to make an unfair activity and give judgment in favor of his person in a dubious situation. Such equations arise out of different forms of personal and professional relationships.

Pecuniary bias

If any of the judiciary has any financial benefit whatsoever, how small that may be will lead to biases administrative authority.

Subject matter bias

When the decision- making authority is involved directly or indirectly in the subject matter of a particular case.

Departmental bias

The problem or issue of departmental bias is very common in any administrative process and is not effectively checked and will cause negative concepts of fairness to disappear at every small interval in the proceedings.

Policy notion bias

Issues arising from preconceived notions of policy are a very dedicated issue. The audience sitting over there is not expecting judges to sit with a blank sheet of paper and give the matter a fair trial and decision.

Bias on the account of obstinacy

Through the unreasonable condition, the Supreme Court has discovered new bias criteria. This new category emerged from a case in which a Calcutta High Court Judge upheld in appeal his own judgment. A direct breach of bias rule is done because in his own case no judge can sit in appeal against.²

Audi Alteram Partem

This maxim was applied in order to guarantee fair play and justice for the person affected. It is applicable mainly in the area of administrative action. The procedure that is being adopted should be fair and just. The person should be given a chance to defend himself before the court of law. The person who decides anything without hearing from the other side even though he says what's right but wouldn't have done what's right. The hearing principle is essentially a code of procedure, and therefore covers every stage through which an administrative jurisdiction passes from notice to final determination.

The key elements of the maxim are as follows:-

Notice

In order to present a case against the proposed action and pursue his application, a notice must be given to them before any action is taken against the party affected. If any order is passed without notice then it runs counter to the natural justice principle and is void ab initio which means void from the beginning. The parties should be aware of the facts before the case is heard. Notification is essential for any hearing to begin. The notification must include the date, time, place of hearing and also the jurisdiction under which a case is filed. It also needs to contain the charges against the person and proposed them.

Hearing

² Blog.ipleaders.in/natural-justice/ (last accessed on 10th August,2020)

Case law:- Harbans Lal v Commissioner, National Cooperative Bank v Ajay Kumar and Fateh Singh v State of Rajasthan³

In this case, it was held that if a person has a reasonable opportunity to be heard or to have a fair hearing it is an essential ingredient of the audi alteram partem principal. This condition is accompanied by the authority providing written or oral hearing which is the authority's discretion, unless otherwise provided for in the statute under which the authority takes action. It is the duty of authority to ensure that the parties concerned have or are not given a chance of hearing orally or personally.

Evidence

Evidence is considered to be the most important part brought before the court when both parties are present and the judicial or quasi-judicial authority acts on the evidence brought before the court.

Cross Examination

The court should not require that the person or material in question be disclosed to be taken against him, but they are given an opportunity to deny the evidence.

Legal Representation

Representation by a legal adviser in an authoritative arbitration shall not be regarded as an imperative part of a reasonable hearing. Be that as it may, when the privilege of legal representation is not rejected in specific circumstances, it adds up to infringement of natural justice at that point.

Exceptions

³ A.I.R. 1994 S.C.39

1. During the period of emergency
2. Public concern
3. Express statutory clause
4. The nature of the case is of no serious nature
5. If it does not affect individual status.
6. In case of fraud.
7. In case of legislative act.⁴

Reasoned Decision

In the legal system, the importance of 'reason' is to connect the dots between facts and decisions; thus, it helps to establish precedents for the system and adds more certainty. The reasons given need to be clear, cogent and succinct. This feature works on two principles; first, if the lower body has given adequate reasons and the higher body affirms that decision then it is no longer necessary to give reasons, but if the higher body alters the decision of the lower body it is necessary to provide reasons. Second, if the higher body affirms the decision of the lower body that has not given adequate reasons, the latter must do so.⁵

Conclusion

The principles of natural justice were adopted and followed by the judiciary for the protection of public rights against the administrative authority's arbitrary decision. The principle of natural justice does not limit the applicability of the principle to restricted walls, but depends on the characteristics of jurisdiction, the granting to the administrative authority and the nature of the individual's rights affected

⁴ [Blog.ipleaders.in/audi-alteram-partem/](https://blog.ipleaders.in/audi-alteram-partem/) (last accessed on 11th August,2020)

⁵ [Lexlife.in/2020/05/13/principle-of-natural-justice-reasoned-decision/](https://lexlife.in/2020/05/13/principle-of-natural-justice-reasoned-decision/) (last accessed on 12th August,2020)