

LEGAL LOCK JOURNAL
2583-0384

VOLUME 2 || ISSUE 3

2023

This Article is brought to you for “free” and “open access” by the Legal Lock Journal. It has been accepted for inclusion in the Journal after due review.

To submit your Manuscript for Publication at Legal Lock Journal, kindly email your Manuscript at legallockjournal@gmail.com.

ANALYSIS ON PRINCIPLE OF NATURAL JUSTICE

Jahanvi Agarwal¹

The term 'Natural Justice' has been derived from a Latin term i.e., 'Jus Naturale' which basically is associated with the concept of common law and other moral principles; however, it is not codified. It basically implies procedural requirement of fairness, reasonableness, equity and equality to be maintained in the society².

“Natural Justice is a sense of what is wrong and what is right.”

Another term 'Lex Naturale' is also a roman word which gave the meaning of the term 'Natural Justice'. It gave importance to equity in the definition of natural justice. The main goal of natural justice is to guarantee equality in societal and individual economic endeavours. Additionally, it protects individual freedom from any arbitrary action. Any Indian law does not mention the concept of natural justice. Authorities view it as a necessary component for the administration of law, though.

There are many jurists who have tried to define 'Natural Justice'. Earlier in *Vionet v. Barrett*³, Lord Esher M.R defined that natural justice is a sense of what is right and wrong but later in a case *Hopkins v. Smethwick Local Board of Health*⁴, he defined that 'natural justice' means 'fundamental justice'. According Lord Parkar, Natural justice is the duty to act fairly. And according to Mr. Justice Bhagwati, Natural justice is a fair play in action.

This concept was introduced in a case named *Mohinder Singh Gill v. Chief Election Commissioner*⁵, in which the court was of the point of view that the concept of fairness should be in every action whether it is judicial, quasi-judicial, administrative and or quasi-administrative work⁶. The main focus of this principle is:

1. To provide equal opportunity of being heard;
2. Concept of fairness;
3. To fulfil the fundamental rights;
4. Basic features of the Constitution;

¹ The author is a student at UPES, Dehradun.

² Lloyd, A. C. "Natural Justice." *The Philosophical Quarterly* (1950-), vol. 12, no. 48, 1962, pp. 218–27. *JSTOR*, <https://doi.org/10.2307/2216451> . Accessed 8 Apr. 2023.

³ (1885) 55 LJ RB 39.

⁴ (1890) 24 QB 713.

⁵ 1978 AIR 851.

⁶ *Ibid.*

5. No miscarriage of justice;

NATURAL JUSTICE IN THE INDIAN CONSTITUTION

Natural Justice is antithesis of arbitrariness⁷. Natural justice could find a free place in the Constitution where the Court accepts to apply the law according to the spirit of the Constitution⁸.

The term "Natural Justice" does not appear anywhere in the Indian Constitution. However, in few sections of the Indian Constitution, along with their respective phrases, reflects about the concept of Natural Justice. For example, in the preamble, Article 14, Article 21, Article 22⁹, Article 39-A¹⁰, Article 311¹¹, Article 32¹², Article 136¹³ and Article 226 of the Indian Constitution¹⁴. Supreme court linked up the constitutional provisions with natural justice in the case named *P. John v. State of Travancore-Cochin*¹⁵.

“The Constitution of India guarantees certain fundamental rights which cannot be curtailed by legislative or executive action except to the extent and in the manner provided in the Constitution. Some of these rights such as freedom of speech and expression, assembly, association, movement, acquisition, holding and disposal of property, and occupation, trade and business are guaranteed by Article 19(1) on which only reasonable restrictions can be imposed by law on grounds mentioned in clauses (2) to (6) that article. The reasonableness of a restriction depends upon the substantive as well as procedural aspects of a law.”¹⁶

Natural justice concepts are strongly rooted in several Articles of the Constitution. With the establishment of the idea of substantive and procedural due process in Article 21 of the Indian Constitution¹⁷ which talks about when a person is deprived of his life and personal liberty. All of the fairness included in natural justice principles may be read into Article 21 of the Indian

⁷ D.T.C. v. Mazdoor Union, AIR 1991 S.C. 101.

⁸ Agrawala, Pramila, and Pramila Agrawal. “Indian Judiciary and Natural Justice.” *The Indian Journal of Political Science*, vol. 25, no. 3/4, 1964, pp. 282–91. *JSTOR*, <http://www.jstor.org/stable/41854041>. Accessed 9 Apr. 2023.

⁹ INDIA CONSTI. art. 22, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹⁰ INDIA CONSTI. art. 39-A, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹¹ INDIA CONSTI. art. 311, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹² INDIA CONSTI. art. 32, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹³ INDIA CONSTI. art. 136, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹⁴ INDIA CONSTI. art. 226, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹⁵ 1955 A.I.R. S.C.A. 85.

¹⁶ Singh, M. P. “DUTY TO GIVE REASONS FOR QUASI-JUDICIAL AND ADMINISTRATIVE DECISIONS.” *Journal of the Indian Law Institute*, vol. 21, no. 1, 1979, pp. 45–73. *JSTOR*, <http://www.jstor.org/stable/43950620>. Accessed 9 Apr. 2023.

¹⁷ INDIA CONSTI. art. 21, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

Constitution. In other areas, it is Article 14 of the Indian Constitution¹⁸ that contains natural justice concepts.

Article 14 of the Indian Constitution applies not just to discriminatory class legislation on but also to arbitrary or discriminatory State action. Because a breach of natural justice leads to arbitrariness, a violation of natural justice is a violation of Article 14's Equality Clause. As a result, the notion of natural justice cannot now be ignored entirely by legislation since doing so would violate the basic rights protected by Articles 14 and 21 of the Constitution.

RULES OF NATURAL JUSTICE

“The concept of natural justice obliges the administrative authorities to act fairly. It is important tool in the hands of the superior courts to control the exercise of quasi – judicial and administrative powers. Natural justice is the name given to certain fundamental rules which are so necessary to the proper exercise of power that they are projected from the judicial to the administrative sphere.¹⁹”

The Principle of Natural Justice consists of 3 rules, namely:

- **HEARING RULE:**
 - This rule basically means that the before making any decision or judgment, the decision-making authority must ensure that both parties in any dispute or legal proceeding was provided with an adequate opportunity to be heard, and that no decision is rendered without one of the parties having a fair opportunity to express their opinion.
 - This provides that the party or person who will be impacted by the judgement made by the expert panel shall be given a reasonable opportunity to present his case and be heard²⁰. The hearing rule is a broad issue that might possibly include a wide range of procedural requirements arising from procedural fairness principles.

¹⁸ INDIA CONSTI. art. 14, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

¹⁹ Chauhan, V. S. “REASONED DECISION : A PRINCIPLE OF NATURAL JUSTICE.” *Journal of the Indian Law Institute*, vol. 37, no. 1, 1995, pp. 92–104. *JSTOR*, <http://www.jstor.org/stable/43951591> . Accessed 8 Apr. 2023.

²⁰ Sankalp Mirani, Natural Justice, Manupatra, (April 09, 2023, 09:48 AM), <https://articles.manupatra.com/article-details/Natural-Justice> .

- BIAS RULE:

- The Bias rule simply states that the panel of experts should be devoid of prejudice while making their conclusion. The choice should be made in a free and fair way in order to comply with the norm of natural justice.
- The rule against bias prohibits elements from inappropriately influencing a judge in making a judgment in a specific case. This rule is founded on the assumption that it is against human nature to determine a matter against one's own interests. The primary goal of this rule is to maintain public trust in the impartiality of the administrative adjudicatory process.
- In the case named *R v. Sussex*²¹, it was stated that justice should not only be done, but also manifestly and undoubtedly seen to be done.

- REASONED DECISION:

- This rule says that order, decision, or judgement of the court is delivered by the Presiding authority with a legitimate and reasonable justification.
- The reasoned decision contains reasons of its own in its support of any decision made. When the adjudicating body offers an explanation for its judgment, it is referred to be a reasoned decision.
- It is also known as the speaking order. In this sense, the arrangement speaks for itself and provides a logical tale of its own. For court review, spoken orders are required. The party or parties must understand why and on what grounds an injunction was issued against them. This is the new natural justice concept recognized in India and the United States, although it has yet to be recognized under English law.

MAJOR PRINCIPLES OF NATURAL JUSTICE

The concept of "natural justice" being ethic- legal in nature has been described as a term "sadly lacking in precision," but the common lawyers have used the expression to mean precisely two principles, viz., audi alteram partem ("hear both sides"), and nemo iudex in causa sua potest ("no one can be judge in his own cause").²²

²¹ (1924)1KB 256.

²² Chatterji, A. "NATURAL JUSTICE AND REASONED DECISIONS." *Journal of the Indian Law Institute*, vol. 10, no. 2, 1968, pp. 241–58. *JSTOR*, <http://www.jstor.org/stable/43949992> . Accessed 9 Apr. 2023.

▪ AUDI ALTERAM PARTEM

- This maxim basically means “to hear the other side”. In simple word, no man should be unheard and both the parties should be provided with an opportunity to be heard so that justice can be achieved. This maxim is known as the ‘Rule of Fair Hearing’.
- “It is true that the audi alteram partem principle is a very ancient one, deriving strength from a Biblical passage and the application of this rule to judicial proceedings is beyond doubt. Where however it is extended to non-judicial orders or to administrative orders the application of this principle is subject to some limitations.”²³
- In the case named *Bihar School Examination Board v. Subhash Chandra Singh*²⁴ it was held by the court that the rule of audi alteram partem was being stretched too far and that some restriction should be made on the application of the principle.
- A person will not suffer if they are given a chance to be heard. Before any order is issued against an individual, he must be given a reasonable opportunity to be heard. This maxim takes into account two principles: fundamental justice and equity.
- The essential elements of this maxim are:

A. Notice: Before any action is taken against the aggrieved person. In order to submit a reason against the proposed action and continue his application, they must be served with a notice. If an order is issued without notice, it violates the concept of natural justice and is void ab initio, which means void from the start.

It is a person's right to know the facts before taking action since without the necessary facts, a person cannot defend himself. This element has been discussed in the various cases like Punjab National Bank v. All India Bank Employees Federation²⁵, Keshav Mills Co. Ltd. v. Union of India²⁶, etc.

B. Hearing: Fair hearing is the second most important aspect of ‘audi alteram partem’. If the order is issued by the authority without hearing the party or providing him with a chance to be heard, it will be deemed invalid.

²³ R.L. Narasimhan, *Audi Alteram Partem Rule—Exclusion in Special Circumstances*, 1 SCC J-3, J-4 (1971).

²⁴ 1974 (1) SCC 648.

²⁵ A.I.R. 1971 S.C. 389.

²⁶ A.I.R. 1973 Punj. 263 33.

- C. Evidence: Evidence is regarded as the most essential component presented before the court when both parties are present, and the judicial or quasi-judicial authority will act on the evidence presented before the court. In the case named *Stafford v. Minister of Health*²⁷, it was held that “no evidence should be received in the absence of the other party and if any such evidence is recorded then it is duty of authority to make it available to the other party”.

- D. Cross- Examination: This feature implies that the court should not be required to expose the individual involved or the evidence to be used against him, but they should be given the option to dispute the evidence. The question is whether or not the witness will be cross-examined.

- E. Legal Representation: This element basically says that there should be legal representation and its refusal will lead to violation of natural justice.

- NEMO JUDEX IN CAUSA SUA POTEST

- This maxim is known as the rule against bias which basically says that no man should be judge in his own case. This phrase emphasises that a person should be given the opportunity to defend himself. Every civilised society must adhere to this idea. This regulation applies to different phases of the administrative adjudication procedure, beginning with notification and ending with the final decision of tax responsibility.
- A reasonable opportunity to be heard is a legal duty. This necessitates the publication of the appropriate notice. Before an unfavourable inference may be formed against a party the authority must issue a show-cause order requiring him/her to explain and give proof. The notification should be explicit and unambiguous so that communication may comply properly, or the goal should be sufficient so that
- This principle includes various types of bias:

- A. Personal Bias: It basically occurs between the party and the concerned authority who makes the decisions. Due to the relations between them, questionable situation may arise as unfair activity may take place. That is judgement or the

²⁷ [1946] i K.B. 621.

decision may be passed in favour of his person. Such equations develop as a result of numerous types of personal and professional relationships.

- B. Pecuniary Bias: Pecuniary bias might be direct or indirect. Even a passing financial interest in a case would preclude a person from adjudicating. When there is a conflict of interest, the decision is null and void.
- C. Subject Matter Bias: The subject matter bias refers to a judge's behavioural approach. This refers to a tendency or inclination towards a specific topic. It may have an impact on a fair choice. A judge's interest in the result of a proceeding may invalidate the order.
- D. Policy Notion Bias: Issues emerging from prior policy notions are a particularly specific issue. The audience does not expect the judges to sit down with a blank piece of paper and provide a fair trial and conclusion on the topic.
- E. Departmental Bias: Departmental bias involves a problem i.e., it is quite widespread in every administrative procedure, and it is not monitored properly, resulting in a negative notion of fairness disappearing in the proceeding at every tiny interval period.
- F. Bias on the Account of the Obstinacy: This type of bias has emerged from a case where a judge of Calcutta High Court upheld his judgment in appeal. No judge can sit in an appeal against his case.

EXCLUSION OF THE PRINCIPLE OF NATURAL JUSTICE

- The exception of 'Natural Justice' is the following:
 1. Emergency;
 2. Public Interest;
 3. Statutory provisions;
 4. The nature of the case is not of a serious kind;
 5. If it doesn't affect the status of the individual.

JUDICIAL PRECEDANTS

“Since Independence until now there are so many cases in the Supreme Court in which we find that natural justice is used to a very large extent. The Supreme Court of India has not deviated from the above principles of natural justice and has in substance adopted them. There are some decided cases in which the Supreme Court applied natural justice as a fundamental basis of its decision. Here are some decided cases”²⁸.

1. In the case of *Mukhtar Singh v. State of U.P.*²⁹, the Division Bench of the Court laid down that "The principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial or quasi-judicial authority while making an order, affecting those rights... These rules are intended to prevent such authority from doing injustice."
2. In the case of *Maneka Gandhi v. Union of India*³⁰ “Bhagwati, J., has gone to say that article 14 "ensures fairness" in state action and any procedure which is not "right and just and fair" and is "arbitrary, fanciful or oppressive" will be invalid under that article. To be specific, he has said that a procedure which provides impairment of personal liberty without the observance of the principles of natural justice," could not be "right and just and fair" and would, therefore be bad under article 14.”³¹
3. In *Thakur V. Hariprasad v. CIT*³², the High Court held as follows:
“The doctrine of natural justice is a facet of fair play in action. No person shall be saddled with a liability without being heard. In administrative law, this doctrine has been extended when a person is made liable in an action without being heard. The principles of natural justice do not supplant the law but merely supplement the law or even humanise it. If a statutory provision can be read consistent with the principles of natural justice, the court could do so, for the Legislature is presumed to intend to act according to the principles of natural justice.”

²⁸ Supra Note, 7.

²⁹ A.I.R. 1957 All. 297.

³⁰ A.I.R. 1978 S.C. 597.

³¹ Supra Note, 15.

³² [1987] 32 Taxman 196 (AP).

4. In the case named *Union of India v. Tulsiram Patel*³³, the apex court held that:
“The essence of natural justice is good conscience in a given situation, nothing more or nothing less”

CONCLUSION AND SUGGESTIONS

Administrative law has elements of common law, particularly when it comes to problems of public interest. It was founded at a period when the way the State worked had altered in the years after independence, and societal welfare had given primacy. In addition to a unilateral choice, the law provides discretion and norms for using authority to keep it in control.

The principles of natural justice have been established and implemented by the judiciary in order to defend public rights from arbitrary administrative decisions. It is easy to observe that the rule of natural justice includes the idea of fairness: they remain alive and help to protect fair dealing.

It is crucial to remember that any judgement or order that contradicts the standards of natural justice will be ruled null and void in nature, therefore keep in mind that the principles of natural justice are required for any administrative settlement to be considered legal.

As per the discussion of the issue about 'Principles of Natural Justice', it plays a significant part in the 'Administration of Justice'. It was created by the courts on occasion to defend ordinary citizens' rights against arbitrary use of authority by administrative, judicial, or quasi-judicial officials, as well as miscarriage of justice. The 'Principles of Natural Justice' are enshrined in Articles 14 and 21 of the Indian Constitution.

³³ 1985 AIR 1416.