

# THE CONUNDRUM BETWEEN THE PRINCIPLES OF NATURAL JUSTICE AND FUNDAMENTAL RIGHTS

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## ABSTRACT

***The goal of enshrining certain fundamental rights in the Constitution of India is to keep them out of the hands of the government which is in majority. As a result, it is necessary to protect fundamental rights in such a manner so that an oppressive government cannot tamper with it or interfere to such an extent as to infringe the rights of the individuals. By opting this path, a protection has been provided to the individuals against the arbitrary actions of the State.***

**Keyword:** Constitution, government, justice, civilization, rights

## 1. INTRODUCTION

The goal of enshrining certain fundamental rights in the Constitution of India is to keep them out of the hands of the government which is in majority. As a result, it is necessary to protect fundamental rights in such a manner so that an oppressive government cannot tamper with it or interfere to such an extent as to infringe the rights of the individuals. By opting this path, a protection has been provided to the individuals against the arbitrary actions of the State.

Central to our aspirations for liberty and rights is the ideal of natural justice. Presence of rule of law is inevitable in a democratic system, similarly the principles of natural justice are inherent for the attainment of the fundamental rights at its fullest. Despite the presence of a plethora of principles of justice, two of those are so fundamental in its nature that they are recognised as the principle of natural justice.

In a general sense, natural justice can simply mean “what is right and wrong”. Even when it is taken in a more technical sense, it can be equated with the concept of “fairness”. Basically, these rules operate as “implied mandatory requirements” and non-observance of which can invalidate the exercise of the power. Natural justice is not only about securing justice, but also about preventing injustice. The case of Ridge v. Baldwin found that the notion of natural justice could not be defined precisely, but rather by what a reasonable person would view as a fair method under specific circumstances. In India, a reasonable man must be a common man in the same situation.

Natural justice rules have evolved alongside civilization, and the substance of these rules is frequently used to assess the level of civilization and rule of law in a given community. Natural justice refers to the "higher law of nature" or "natural law," in which the lion and lamb sleep together and the tiger chases the antelope. Henceforth, the principle of natural justice simply includes the ideas of reasonableness, fairness, just and equity.

## 2. NATURAL JUSTICE

According to these principles, there is no exclusionary rule as to the difference it would have made if the principles of natural justice would have been complied with. Regardless of any subsequent presence of bias resulting from the denial of natural justice, the denial of natural justice is biased in itself. The claim has to be made by the person who has been denied justice as to whether he or she has been biased or not.

Natural justice is a concept with a long history. It was inspired by the Roman concepts of 'Jus-naturale' and 'Lex-naturale.' They proposed that the existing customary law or rules have some kind of conformity or linkage to the eternal, unchanging laws of nature, such as the laws that the Gods tolerate. Natural Justice is a term that refers to the fundamental principles and procedures that govern the arbitration of conflicts between individuals and between individuals and organisations. So that each side in this disagreement believes that fair procedures have been followed.

**Following are three basic principles of nature justice:**

**Audi alteram partem:** This maxim basically means that both sides must be heard before deciding the matter. The

essence of this maxim is to provide a fair procedure to both the parties of a suit. It is a fundamental rule that a decision should be given only after giving reasonable opportunity to both the sides to present their case.

**Nemo iudex in causa sua:** This maxim means that a person should not be a judge in his own cause. A judge is barred from deciding any case in which he is, or is reasonably suspected of being, biased.

**Reasoned decision or speaking order:** The recording of reasons is a natural justice principle, which has emerged recently through judicial trends. After deciding a matter, a written reason should always be there with the final order. Reasoned order helps in enhancing the presence of transparency and fairness in the whole decision-making process. It also allows the party who have been adversely affected to learn why their application was denied.

The Indian judicial system has always taken a step ahead and interpreted the principles of natural justice in such a manner as to incorporate it with the principles of fundamental rights in all of its essence. In the case of *Swadeshi Cotton Mills v. Union of India*, the Supreme Court described the natural justice principles in the following manner:

“The principles of natural justice have taken deep root in the judicial conscience of our people. They are now considered as fundamental as to be ‘implicit in the concept of ordered liberty’. Therefore implicit in every decision making function call it judicial quasi-judicial or administrative. Where the statute is silent about the observance of the principles of natural justice such statutory silence is taken to imply compliance with the principles of natural justice.”

Fortescue J in the *Dr. Bentley* case while explaining the profundity of the natural justice principles observed that:

“The laws of God and man, both gave the party an opportunity to make his defence if any. I remember to have heard it observed by a very learned man upon such an occasion, that even God himself did not pass sentence upon Adam, before he was called upon to make his defence. ‘Adam’ says God, ‘where art thou? Hast thou not eaten of tree whereof I commanded thee that thou should not eat?’ And the same question was put to Eve also.”

In *P.D. Dinakaran (1) v. Judges Inquiry Committee*, the court held that the natural justice standards are flexible, and their application is determined by the facts of the case and any applicable statutory laws. It also depends

upon the nature of the right that may be affected, and the consequences that may result from a violation of the norms of natural justice.

### 3. FUNDAMENTAL RIGHTS

Since the 17th century, human thought has veered around the theory that individuals have certain essential, basic, natural, and inalienable rights or freedoms. State being the guardian of the whole population, holds a duty to recognise and allow these rights and freedoms to play freely in order to preserve human liberty, develop human personality, and promote an effective social and democratic life.

As per the opinion of John Locke, “man is born with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the Law of Nature and he has by nature a power to preserve his property- that is, his life, his liberty, and estate, against the injuries and attempts of other men.” Free democratic states' constitutions organise and govern authority, protect human rights, balance competing societal and individual interests, reflect the country's culture and experience, and serve as vehicles for national advancement and unity. If all people are deemed to have the same set of liberties and are not subjected to exploitation, denial, or tyranny by others or the authorities, the potential for individual personhood development in line with society objectives is enormous.

The enshrined Fundamental Rights have two sides to them. From one perspective, they offer citizens with justiciable rights that can be enforced against the government through the courts. Fundamental Rights, on the other hand, are constraints and limitations on government activity, whether taken by the Centre, a State, or a local authority.

Part III of the Indian Constitution carries the title of “Fundamental Rights” which are judicially enforceable, and, therefore, they constitute the most important limitation on the powers that are bestowed upon the government through the Constitution or various statutes. In *I.C. Golaknath v. State of Punjab*, Subba Rao, C.J. said that the rights are transcendental and primordial. By this he was alluding to the belief of the philosophers of the Natural Law School of jurisprudence and political philosophy that a human being is entitled to the protection of certain rights from his birth. These rights are inherent in him because he is a human being and for this reason these are known as human rights. Indeed, ‘human rights’ is the modern name of what were earlier known as natural rights. That expression was used to distinguish the

rights so called from positive rights which originate in some grant from the State. On the other hand, the belief of the natural Law School has been that the State itself was brought into existence with a view to protect these rights.

#### **4. THE CORRELATION BETWEEN FUNDAMENTAL RIGHTS AND PRINCIPLES OF NATURAL JUSTICE**

The Indian constitution's framers purposely removed the due process clause from Article 21, yet due process only became a legal concept in Indian jurisprudence in the late 1970s. The scope of Fundamental Rights has widened as a result of their existence. Various scholars view the expansion of due process as part of the Indian Supreme Court's broader tendency toward more expansive interpretive methods. The rise of judicial activism is another cause for the emergence of natural justice in Indian law.

Fair procedure, as defined by Articles 14 and 21 of the Constitution, includes the duty to act fairly. Every action taken by a public authority or by those who have a public responsibility or obligation must be guided by reason and the public interest. All of the fairness that is included in the principles of natural justice can be read into Article 21 when a person is deprived of his life and personal liberty, due to the introduction of the notion of substantive and procedural due process in Article 21 of the Constitution. Article 14 now embraces the ideas of natural justice in various domains.

Article 14 now covers not only discriminatory laws but also arbitrary or discriminatory government actions. Because a violation of natural justice leads to arbitrariness, a violation of natural justice is a violation of Article 14's equality requirement. All of this shows that natural justice concepts are already enshrined in the Constitution.

Most of the times, while filing a writ on the ground of violation of natural justice, it is based on an action which is arbitrary and in violation of Article 14. Article 14 provides that "the State shall not deny to any person equality before the law or the equal protection of the laws". The Apex Court in the case of *E.P. Royappa v. State of Tamil Nadu & Anr* through Bhagwati J. laid down some principles providing that arbitrariness is the antithesis of equality. The courts and the tribunals are bound to observe the principles of natural justice but it can be read into Article 14 only in certain situations.

In the case of *Maneka Gandhi v. Union of India*, the authorities confiscated the passport of the petitioner under the Passports Act. The Act does not specifically provide for an opportunity of being heard before the confiscation of the passport. While deciding the petition, the Court held that the confiscation of the passport gave rise to a civil action and hence the principle of natural justice had to be followed. The State took the defence of natural justice for not affording the opportunity of being heard before confiscating the passport. But, during the trial the Attorney General argued before the Court that an opportunity will be given to the petitioner for presenting her cause and after considering her reasoning an another order will be passed. The contention of the Attorney General was accepted by the Court. Bhagwati J., while writing the judgment laid down certain principles dealing with the relation between natural justice and Article 14. The Court held that Article 14 of the Indian Constitution struck down any arbitrary actions to ensure a fair and just treatment. Through the aforementioned judgment, a linkage can be formed between the principle of natural justice and fair action, which ultimately links it with Article 14.

The principles of natural justice can be put in two words: fairness and impartiality. While incorporating the concept of natural justice and preventive detention, the Apex Court in *A.K. Roy v. Union of India* observed that the principles of natural justice "are not rigid norms of unchanging context. The ambit of these rules must vary according to the context and they have to be tailored to suit the nature of the proceedings in relation to which the particular right is claimed as a component of natural justice."

The Supreme Court held in *Rajasthan SRTC v. Bal Mukund*, that the purpose of natural justice principles is to prevent miscarriages of justice, and thus their observance is a pragmatic requirement of fair play in action. Article 14 prohibits even the most egregious violations of natural justice principles. The courts devised principles of natural justice, these judge-made standards are continuing to be a classic example of judicial activism, to prevent mishaps in the exercise of outsourced adjudication power granted to administrative authorities. The Supreme Court of India in *H.L. Trehan v. Union of India*, unequivocally that taking action without hearing would be arbitrary and would violate Article 14 of the Constitution, even if the government had statutory right to do so.

Article 14 provides for the concept of non-arbitrariness which is a key feature that pervades the entire sphere of

state conduct controlled by it. As a corollary, it has been proven that the audi alteram partem aspect of natural justice is likewise a requirement of Article 14, because natural justice is the polar opposite of arbitrariness. It is well-established in the field of public employment that any action done by the employer must be fair, just, and reasonable, all of which are components of fair treatment. The Apex Court in the case of *Union of India v. Tulsiram Patel*, recognised that the rules of natural justice is a part of Article 14, i.e. The right to equality.

“Judges, like Caesar’s wife, should be above suspicion.” It is critical that justice is not only done, but also clearly and unmistakably perceived to be done. A court of law cannot ignore the harsh facts of reality while interpreting legal rules. When dealing with such issues, the court should be pragmatic rather than pedantic, realistic rather than dogmatic, functional rather than formal, and practical rather than prescriptive. Nonetheless, the application of natural justice principles is not reliant on any statutory provisions. Wherever prejudice arises, the principle is inevitably drawn in.

The Court in the matter of *Board of Trustees, Port of Bombay v. S.R. Nadkarni*, held that the action taken against an employee on the basis of enquiry which was vitiated by non-observance of rules of natural justice was violative of his right to life guaranteed under Article 21. In this case the employee was not allowed to engage a lawyer even though the employer had taken the help of two trained lawyers by appointing them as presenting-cum-prosecuting officers to present the employer’s case before the enquiry officer. The Court held that this constituted gross violation of the rules of natural justice.

## 5. CONCLUSION

By analysing various decisions by the Courts, it can be observed that the courts can control the actions of the public authorities with the help of rules regarding the ideas of reasonableness, rationality, improper purposes, and so forth. Similarly, it can also control the established procedure through the principles of natural justice. They have imposed a specific procedural technique on government departments and statutory authorities in general as a result of this. The Strait-Jacket formula cannot be applied, but each case's facts and circumstances determine whether or not the theory is followed.

The observance of the rules of natural justice is the most important procedural safeguard on which the Courts insist. It would mean that before a person is deprived of

his constitutionally guaranteed rights or restrictions are imposed on their exercise, he must be given a fair hearing and the authority empowered to do it should not be disqualified for reasons of bias.

Natural justice principles cannot be completely disregarded by legislation because this would be a violation of Articles 14 and 21 of the Constitution, which guarantee fundamental rights. To summarise, it is now well established that a breach of natural justice principles alone does not justify judicial action unless the breach also results in avoidable detriment to the person.

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