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# Expanding Horizons of the Doctrine of Natural Justice: An Analysis from Indian Constitutional Perspective

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## ABSTRACT

*Natural justice, also known as common-sense justice, is based on human sense of right and wrong. It is the most widely recognized approach to government action and is considered a synonym for fairness in the context of justice. It ensures the preservation of individual interests and equitable administrative processes. The Supreme Court ruled in the Maneka Gandhi v. Union of India case that proper procedures should be followed in administrative processes to protect people's rights. The principles of natural justice are developed with the change of civilizations. Now the principles of natural justice are firmly grounded in Articles 14 and 21 of the Indian Constitution. Following natural justice principles is essential for providing actual justice. However, there should be no limitations on expanding its horizons of natural justice until it harms other's lives or liberties. There are no drawbacks to follow the principles of natural justice rather, there is a possibility of injustice if its components are not upheld.*

**Keywords:** *Natural, Justice, India, Constitution.*

## I. INTRODUCTION

Natural Justice is another name for common-sense justice and is based on the natural sense of man of what is right and what is wrong. Natural law has an inherent rationality which is similar to natural justice. However, the doctrine of natural justice is not only to secure justice but to prevent miscarriage of justice. In actuality, the theory is currently the most widely recognized approach to a government action and is referred to as a synonym for fairness in the context of justice. The significance of natural justice has grown significantly in the modern era. It guarantees the preservation of individual interests and equitable administrative processes. In the case of *Maneka Gandhi v. Union of India*<sup>2</sup>, the Supreme Court ruled that some protection of people's rights could be expected by requiring the bureaucracy to follow proper procedures when performing its duties, given the administration's extensive powers to impact private

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<sup>2</sup> *Maneka Gandhi v. Union of India*, 1978 AIR 597, 1978 SCR (2) 621.

rights and the absence of sufficient substantive safeguards. The administrative process now includes these procedural fairness guidelines as a fundamental component.

### **(A) Natural Justice: The Concept and Definition**

The term 'Natural Justice' has been derived from 'jus naturale', which means principles of natural justice, equity and good conscience. It has not been possible to frame an exact definition of the expression natural justice, however, the fundamental rule is that any decision-making body must be impartial and unbiased and it must not be interested in the subject matter of the dispute or must not have a tendency to judge the case either way.

However, According to Lord Widgery, "the principles of natural justice were those fundamental rules, the breach of which will prevent justice from being seem to be done."<sup>3</sup>

According to De Smith the term 'Natural Justice' expresses the close relationship between the common law and moral principles. It is also known as 'substantial justice', 'fundamental justice', 'universal justice' or 'fair play action'.<sup>4</sup>

## **II. PRINCIPLES OF NATURAL JUSTICE**

There are two principles of Natural justice. Which are as follows:

1. Nemo Judex in Causa Sua or Rule Against Bias
2. Audi Alteram Partem or Rule of Fair Hearing

### **(A) Rule Against Bias**

One of the core components of the legal system is that administrative authorities functioning in a quasi-judicial position must be impartial, fair, and free from bias. The ban on bias and interest is the fundamental tenet of natural justice. This theory states that no one may sit as a judge in his own cause and that a judge must be unbiased and make an objective judgment based on the facts of the case.

### **(B) Rule of Fair Hearing**

The second well-established and significant principle of natural justice is 'Audi Alteram Partem'. It states that both sides must be heard before any decisions are made. The phrase 'Audi Alteram Partem' simply means that someone has to be given the chance to defend themselves.

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<sup>3</sup> DR. T. VIJAYA CHANDRA, ADMINISTRATIVE LAW (LL.M., PAPER-III), 53 (School of Distance Learning and Continuing Education, Kakatia University 2008).

<sup>4</sup> *Ibid.*

### III. CONSTITUTIONAL HABITAT AND EXPANSION OF THE IDEA OF NATURAL JUSTICE

In the history of Indian constitutional jurisprudence, the most notable development is the combination of social justice, the rule of law, and the values of a dignified human existence, which led to the recognition and upholding of positive rights of life. The right to food, health, healthy environment, shelter, education, and a means of subsistence, all within reasonable bounds, became a legitimate part of the right to life. The process also results in the blending of justice with the right to privacy and dignity. It is undeniable that the value-based and purpose-driven reading of Article 21 has transcended the traditional focus on improving the law surrounding the due process provision in order to humanize the criminal justice system. The audacity of the judicial activism in this area truly lived up to the expectations that were rightfully flowing from goals to the welfare state.

Article 311 contains all the principles of natural justice without using the expression as such. The duty to act fairly is part of fair procedure, envisaged under articles 14 and 21 of the constitution. Now the principles of natural justice are firmly grounded Articles 14 and 21 of the Constitution. With the Article 21 of the Constitution, all that fairness which 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. In other areas, it is Article 14 which now incorporates the principle of natural justice. Article 14 now applies not only to discriminatory class legislation but also to arbitrary or discriminatory State action.<sup>5</sup>

#### (A) Article 14 and Expansion of Natural Justice

Article 14, which now incorporates the principle of natural justice. Article 14 now applies not only to discriminatory class legislation but also to arbitrary or discriminatory State action. Because violation of natural justice results in arbitrariness, therefore, violation of natural justice is violation of the equality clause of Article 14. This all suggests that now the principles of natural justice are grounded in the constitution. Therefore, the principles of natural justice cannot be wholly disregarded by law because this would violate the fundamental rights guaranteed by Articles 14 and 21 of the Constitution.<sup>6</sup>

In the case of *H.L. Trehan v. Union of India*<sup>7</sup>, the Supreme Court made it absolutely explicit that even when the authority has statutory power to take action without hearing, it would be

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<sup>5</sup> DR. I. P. MASSEY, *ADMINISTRATIVE LAW*, 190 (Eastern Book Company 2017).

<sup>6</sup> *Ibid.*

<sup>7</sup> *H.L. Trehan v. Union of India*, 1989 AIR 568.

arbitrary to take action without hearing and, thus, violative of article 14 of the constitution.

### **(B) Article 21 and Expansion of Natural Justice**

The language of article 21 and its marginal note are flexible enough to accommodate positive rights of life also. As the marginal note hints, the purpose of article 21 is protection of life and the personal liberty. In a system of activist state committed to the goals of social justice for all. Protection implies a function beyond mere safeguard against over deprivation. It reaches to accessories and basic necessities that facilitate a wholesome life. The reason is that human beings, by possessing physical, mental and moral characteristics and as entitled with potentiality for development. Can adequately the positive rights function as human being only with the assistance of the basic necessities of life? So, the positive right theorist considers that the link between the human right to life and characteristics being obviously calls for enhancement of quality of life. Whereas the negative rights theorist considers that state intervention, even with a do-good motive, impedes human development. Positive right theorists like Michel Freden postulate, “Direct intervention in the life of the individual is necessary to ensure her or his right to development and growth and that, further, intervention in lives of others may be required to achieve that end. Its approach to human nature regards human growth as frequently, though not solely, dependent on external facilitation or cooperation. This approach called for an extensive role of public action in positive.”<sup>8</sup>

### **(C) Procedure Established by Law and the Principles of Natural Justice**

In the case of *A.K. Gopalan v. State of Madras*<sup>9</sup>, the petitioner argued that the phrase ‘procedure established by law’ was equivalent to the American constitution's ‘due process of law’. According to the argument, the Indian Constitution provides the same protections as the US Constitution, with the exception that only procedural law is protected in India, whereas the US Constitution has construed the due process clause to embrace both substantive and procedural law. The argument was that the phrase ‘established’ had a broader meaning than ‘prescribed’, the word ‘law’ did not refer to enacted legislation but it meant the principles of natural justice, and the word ‘due’ made no difference to the interpretation of Article 21.

In the case of *D.K. Yadav v. J.M.A. Industries Ltd.*<sup>10</sup>, the Supreme Court held that even in cases where statutory standing orders allowed management to fire an employee who had overstayed their leave period, without hearing, the termination of services would be violative of article 21

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<sup>8</sup> P. ISHWARA BHAT, *FUNDAMENTAL RIGHTS*, 280 (Eastern Law House 2004).

<sup>9</sup> *A.K. Gopalan v. State of Madras*, 1950 SCC 228.

<sup>10</sup> *D.K. Yadav v. J.M.A. Industries Ltd.*, 1993 SCC (3) 259.

of the constitution, as such a procedure established by law which deprives a person of his livelihood cannot be said to be just, fair and reasonable under article 21 of the Constitution.

**(D) Widest Interpretation of the word ‘Personal Liberty’ in Maneka Gandhi Case: A new Dimension of Natural Justice**

In the case of *Maneka Gandhi v. Union of India*<sup>11</sup>, the Supreme Court was again asked to review the definition and content of the term ‘personal liberty’. In this case the Court has given the widest possible interpretation to the words ‘personal liberty’. In that case the petitioner’s passport was impounded by the central government under section 10(3)(c) of the passport Act, 1967. The Act gave the government permission to act in this way if it was required to protect the public interest. In the interest of the people, the Indian government declined to provide the rationale behind its choice. The petitioner challenged the validity of the said order on the following grounds that,

- Section 10(3)(c) was violative of Article 14 as conferring an arbitrary power since it did not provide for a hearing of the holder of the passport before the passport was impounded.
- Section 10(3)(c) was violative of Article 21, since it did not prescribe ‘procedure’ within the meaning of that Article 21.
- Section 10(3)(c) was violative of Article 19(1)(a) and (g) since it permitted imposition of restrictions not provided in clauses (2) or (6) of Article 19.

However, the government’s affidavit, which claimed that the petitioner’s attendance was likely to be necessary in connection with the proceedings before a commission of inquiry, revealed the reasons for the decision. Regarding the hearing opportunity, the Attorney General stated that the petitioner could present a case regarding the impoundment of a passport and that the case would be handled quickly and according to law.<sup>12</sup>

The Supreme Court ruled that the government had no right to deny the petitioner the explanation for why the passport had been seized. Bhagwati, J., who delivered the majority judgment, questioned if merely prescribing a technique is sufficient or if it needs to adhere to certain standards. Then he ruled that the procedure contemplated in Article 21 could not be unfair or unreasonable. Additionally, the reasonableness concept, which was a crucial component of equality or non-arbitrariness, pervaded Article 14 like a brooding omnipresence, and the procedure envisioned in Article 21 must pass the reasonableness test in order to comply

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<sup>11</sup> *Maneka Gandhi v. Union of India*, 1978 AIR 597, 1978 SCR (2) 621.

<sup>12</sup> **DR. J. N. PANDEY, CONSTITUTIONAL LAW OF INDIA**, 268 (Central Law Agency 2018).

with Article 14.

Therefore, it was impossible to avoid denouncing as unfair and unjust any process that allowed the restriction of a person's right to travel abroad without providing him with a fair chance to be heard. The order withholding reasons for impounding the passport was therefore not only in breach of statutory provisions (Passport Act) but also in violation of the rule of natural justice embodied in the maxim 'Audi Alteram Partem'. The justice of common law will fill in the legislative gap even if the Passport Act has no explicit language mandating that the party be heard. A quasi-judicial power is granted to the passport authorities to impound a passport under Section 10(3)(c) of the Act. The rules of natural justice would therefore be applicable in the exercise of this power.

Natural justice is a great humanistic idea, which aims to ensure justice and give the law a fair foundation. Therefore, in order to be fair in action, the individual who is impacted must be given a chance to be heard. A clause in the Passport Act, 1967, that requires the affected individual to have such an opportunity can and should be interpreted implicitly. The process outlined for impounding passports would be proper, equitable, and just and would not be prone to the vices of arbitrary or unreasonable behavior if such requirements were seen to be impliedly included in the Act.

#### **(E) Limitations of Expanding Horizon of Natural Justice**

We know that disclosing the identity of a victim of rape is a punishable offense under section 72 of the Bharatiya Nyaya Sanhita (BNS). Though freedom of speech is secured under Article 19 of the Constitution, freedom of speech doesn't mean that we shall disclose anything that may hamper other's lives or violate fundamental rights of others. For which there are some limitations.

Actually, there should not be any limitations on expanding the horizons of natural justice until it would hamper other's lives or liberties. As the civilization changes, there will come new problems. So, it may hamper getting justice if we want to limit the expanding horizon of natural justice to a certain extent. The aim of our constitution is access to justice. So, for giving justice, if there is expansion needed, it will be expanding from time to time; that is normal, and it is the demand of the age.

## **IV. CONCLUSION**

Rights and duties are closely related and cannot be separated from one another. These are the two sides of the same coin. If the state gives the right to life to a citizen, it also imposes an

obligation on him to not expose his life to danger, as well as to respect the life of others. So, when anybody hampers the life of others or a fundamental right of a person is violated by others, then the state has to reduce the freedom of that person. So, it is natural that there must be some limitation on enjoying the rights.

The principles of natural justice are developed with the change of civilizations. Following the principles of natural justice is very essential for giving actual justice. Though it is true that the expansion of natural justice may facilitate a real criminal. But we should keep in our mind that we cannot stop a natural system for access to justice for maximum people, only for the reason that a criminal may facilitate. The theory of justice says that a hundred criminals should be free from punishment, but one innocent should not be punished. So, natural justice will follow its own way.

However, there should not be any limitations on expanding the horizons of natural justice until it would hamper other's lives or liberties. We should be prepared to welcome any new horizon of natural justice, because following natural justice has no demerits, but there is a chance of injustice if the principles of natural justice are not followed. So, there is no need to stop the expansion of natural justice. It will automatically stop after giving justice.

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**V. BIBLIOGRAPHY**

1. Prof. (Dr.) I. P. Massey, ADMINISTRATIVE LAW, Eastern Book Company, Lucknow, Ninth Edition, 2017.
2. M. P. Jain & S. N. Jain, PRINCIPLES OF ADMINISTRATIVE LAW, Lexis Nexis, Gurgaon, Seventh Edition, 2013.
3. P. Ishwara Bhat, FUNDAMENTAL RIGHTS, Eastern Law House, Kolkata, 2004.
4. Dr. J. N. Pandey, CONSTITUTIONAL LAW OF INDIA, Central Law Agency, Allahabad, Fifty fifth Edition, 2018.

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