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Application of Principle of Natural Justice by Supreme Court of India

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ABSTRACT

Although it is not defined, the term "principle of natural justice" is derived from the Latin phrase "jus natural," and it is strongly related to moral and common law standards. It is a universal law that is unrelated to any laws or constitutions. The natural justice concept is held in the greatest regard by all citizens of civilised nations. When industrial regions were ruled by a tight and harsh legislation to hire and fire, the Apex Court of India issued its instruction as time passed and social, just and economic statutory protection for employees during the early days of fair practises.

The concept of natural justice involves making a fair and unbiased decision regarding a specific matter. The method used and the individuals involved in arriving at a just conclusion can be just as important as the decision itself. This idea extends beyond the notion of "fairness" and can take on various forms depending on the situation.

A welfare and police state has replaced the government. As a consequence, the administrative will has been carried out. The choice of conscience is permitted under administrative law, but it does so in line with justice-based principles rather than a single will. The executive is given discretion under this statute, and it also details how to exercise that authority. The idea of absolute authority prohibits arbitrary action. Administrative law seeks to restrict the use of discretion.

Arbitrariness and injustice have a broad scope. The judge may intervene if the discretionary is being misused or utilised unduly. However, it can only get involved if a person considers that an administrative authority's activity has breached their rights.

Keywords: *Principle of natural justice, audi alteram partem, nemo judex in causa sua.*

I. INTRODUCTION

Since the dawn of humanity, the concept of right and wrong has been prevalent in the very essence of the existence of human beings. Be it Ramayana in Hindu Mythology, or be it Cain and Abel in the biblical Book of Genesis, it has always been the definite line which separates black from white.

The principle of natural justice, is a term so wide that within it's ambit it encompasses very rule

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or law that we now have which governs us, Natural justice is the very basic foundation for just and fair adjudication, embedded in tradition and conscience, to be said as fundamental. The purpose of following the natural justice principle is very simple, which is to prevent miscarriage of justice[2]. The concept of justice is a person's expectation that he or she is entitled to get what is due to the rules of law. It also represents the position or benefit that a person may expect from a certain position or status. In addition, it refers to the availability of remedies that are reasonably and just for the people. Finally, it refers to the rights that the legal system provides to its members.

The very idea of justice may be attained in two distinct ways: first, by a person's subjective assessment of what they believe to be just based on their own reason and inherent sense of right or wrong, and second, by following the laws that have already been established by society. Natural justice is defined as justice based on the first process, and legal justice is defined as justice attained through the second process. Aristotle promoted the necessity for a unique norm to handle the distinctive circumstance and as a result, he brought the concept of "Aequitas or Equity" into the nation's law. The need of adhering to the laws based on sound reasoning, good faith, and a feeling of fairness was stressed by mediaeval thinkers including Hugo Grotius, Emmanuel Kant, and St. Aquinas.

In Indian legal context, The Supreme Court of India is the Apex Court which upon itself has the duty to serve justice, in recent times the law has been considered dynamic which is out to be in consonance with the changing environment. As is it said that the only thing constant in nature is change, it is very well upon bestowed upon the law and its practice as well, yet the essence still remains the same. From the very day of coming into existence till today, the Apex Court of India has not taken any rest irrespective of the fact whether it has been working on full capacity or not, several advancements have been introduced while keeping the roots intact. There are many events during which it can be seen that even the Apex body may fail to deliver what is considered to be right but then yet again it was only the duty and obligations it was bound by.

The notion of justice may be achieved in two distinct ways: first, by what a person in his or her own judgement based on his or her own reason and natural sense of right or wrong deems to be just,and secondly by following the guidelines that the organisation had already established. Natural justice is defined as the outcome of the first process, and legal justice is defined as the outcome of the second. Out of these two approaches, the former has the backing of classical thinkers, while the later is the one that is more frequently used in modern law.

[2] https://nacin.gov.in/resources/file/e-books/Principles%20of%20natural%20justice.pdf

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When Aristotle first outlined his philosophy of justice and law, he believed that Natural Law was of main significance and that human-made laws were of secondary importance. Other subsequent thinkers believed that Natural Law reflected a greater Ideal and deserved a higher standing than all other legal concepts.

Dharma, or the principle of natural justice, predominated over both societal norms and governmental regulations in ancient India. The English legal system mandated that courts dispense justice based on both law and fairness, and judges were empowered to act in accordance with these principles. Consequently, in addition to the principles of positive law, Natural Law principles were used as a foundation for the Indian legal system.

The governmental divisions of the state, namely the legislative, executive, and judicial branches, are imbued with unique functions through which they wield power. In situations where judicial and quasi-judicial authorities preside over disputes between opposing parties, the application of natural justice principles assumes heightened importance. Although current legal norms primarily derive from statutory laws and customary practices, in instances where such sources fail to provide guidance for a specific issue, the courts must adhere to the tenets of natural justice to ascertain the rights and duties of individuals in a manner that upholds the integrity of justice. This type of system has a very long history and has contributed to the creation of a sizable body of legal precedent wherever it has been permitted to function.

"Equity will not suffer a wrong to be without a remedy[3]" was the guiding premise in the application of equity jurisdiction. By adhering to this principle, equity incorporated the ideas of equitable rights, equitable remedies, and equitable interests into the English legal system. The role that equity played in the sphere of private law was very important. The notions of partial performance, election, satisfaction, and redemption were those that the legal system recognised. The recognised remedies included those for specific performance, injunction, declaration, revocation, and others.

However, the significant role that the courts had played in bringing English law into line with Natural Law and establishing its supremacy was short-lived. The corts of Common Law and the Courts of Equity were combined in response to the fight for dominance between the Crown and the Courts and between the Courts and the Legislatures. The increase of legislative authority, which subsequently manifested itself as legislative supremacy, contrasted with the decrease of judicial authority. The third and most significant source of law is considered to be statutes,

[3] Person (2023) *103. equity will not suffer a wrong to be without a remedy.: Equitable Jurisdiction*, *LexisNexis*. Available at: https://www.lexisnexis.co.uk/legal/commentary/halsburys-laws-of-england/equitable-jurisdiction/equity-will-not-suffer-a-wrong-to-be-without-a-remedy-01 (Accessed: 30 May 2023).

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which the legislature has been enacting since the 17th century.

Since they occasionally permitted the application of the principle of natural justice to situations before the courts, the Statutes and Statutory provisions of the post-codification period had this important quality. Some of the laws were written in such a way that the application or disregard of natural justice principles was not addressed. The courts have had to decide whether to apply merely the legislative requirements or the principle of natural justice in the absence of such an omission. Given the widespread support that the principles had by that point gained across the continent, the judges were inclined to adopt them.However, due to criticism from the leaders of the Analytical School and the Historical School of Jurisprudence, the Eighteenth Century saw a drop in Natural Law and a decline in the Principle of natural justice.

The Principle of natural justice were once again revived in the 20th century, and this had a long-lasting effect on restorative justice principles everywhere. As a result of this significant advancement, the Natural Justice principles now apply to a sizable portion of the system of remedial justice. The Civil Codes of many countries provide for the use of natural justice principles where the law is silent on a particular issue, and the objectives of justice demand that such principles be applied to cases that are brought before them.

These legal systems even go so far as to make judges' actions illegal if they choose not to follow the rules of natural justice or interpret the law in accordance with the norms of civilised societies. There is a movement to stop the unprecedented expansion of the natural justice concepts.

So much so that there is a situation where the application of natural justice principles would be ineffective.

(A) Review of literature:

1. **The Principle of natural justice and Indian Judicial System** by **S K Garg** has helped lay special emphasis of the concept of natural justice while contrasting it with Indian legal system and the daily working of courts. It has helped greatly in drawing out the definite relationship between natural justice as a basic principle while not only framing the rights but also practicing them.
2. **Natural Justice: Principle and Practice** by **Billy Strachan** defines principle of natural justice while keeping in mind even the most minute detail which is derived from the study of history and application of such principles from the roman era till now which helps shedding light on the evolution for the purpose of this research.

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3. **Natural Law And Legal Practice: Lectures Delivered at the Law School of Georgetown University: Lectures Delivered at the Law School of Georgetown University (1899)** by **Rene I. Hoeiland** has served the purpose of drawing out the actual ground reality on how the principle of natural justice has been laid out for young minds upon their applicability and teaching purposes in the real life scenario.
4. **Natural justice** by **Suran Chakravarti** has laid down the fundamental principles of judicial procedure, was first published by the Eastern Book Company in Lucknow in 1961, and the second edition, with a supplement published in 1978, describes in detail the principles that apply to various matters, particularly the obligation to act judiciously.

(B) Statement of problem

Natural justice is largely used in the judicial and quasi-judicial institutions that determine rights and responsibilities of parties and adjudicate disputes. Apart from the judicial and quasi-judicial institutions, there are administrative agencies or institutions that exercise a variety of powers and carry out a variety of functions, raising the question of whether the principle of natural justice apply to everything done by the agencies of State administration or only to the judicial or quasi-judicial institutions.

The first problem that arises is that whether the principle of natural justice though said to be enshrined deep within the roots of out legal system, does it in actuality has the effect of the same, for example the judicial system in India is said to have been enjoying the same supremacy as that of the other two organs, but what if the Legislative and The executive itself doesn't exercise the said principle, would the judiciary have to follow what it has already been provided with or go with its own opinion.

Another problem that is faced is whether the said right or principle is absolute in nature or not, with time it has been mirrored by the reality that principle of natural justice is not exhaustive in nature yet the application of the same has been lacked during several occasions.

(C) Objective of the study

In the day-to-day life, it has been seen that from the very bringing into existence of law to its interpretation and application, the principle of natural justice has a special emphasis yet on the other hand it still has lacked on certain occasions. For one person the principle is the very essence for the justice thus derived and for the other there is no trace of the principle and as a result the aggrieved feels looted of their rights. The study thus lays special emphasis on the application of Principle of Natural Justice By The Supreme Court of India. The main objectives thus are:

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1. To examine the nature and application of the various natural justice principles in light of the cases that have resulted in legal disputes.
2. To examine the circumstances in which the legislature and the courts restrict the implementation of natural justice principles for the sake of fairness;
3. To evaluate the significance of the natural justice principles particularly in the areas covered by the public law discipline in administering justice.

(D) Research Methodology

The study was conducted as doctrinal research while keeping in mind the hypothesis and objective of the study. The information needed for the objective was gathered using historical and analytical techniques. The essential information was gathered from the library in Amity University, Noida and other institutions outside the University in order to examine the idea of natural justice and the implementation of its principles.

(E) Hypothesis

On a preliminary observation of the rules governing the system of remedial justice and the fundamentals of our Jurisprudence the hypothesis formulated for study is that the principle of natural justice are of great importance and have received recognition by the legislative and the judicial branch in regard to various matters, these principles have a limited role to play in regard to certain specific sectors of administration of justice. It can also be seen that though the same has laid great emphasis on various legal matters, even in certain cases the application of the same can be seen failing during times and for this disparity the research is conducted to help shed light upon the greater aspect covering the same.

II. CONCEPTUAL STUDY OF THE PRINCIPLE OF NATURAL JUSTICE

The concept that what is natural is good is a widely held belief around the world. Natural actions like parental love, caring for elderly relatives, and amicable dependency are beneficial to society. Conversely, anything that ignores or misrepresents human nature is detrimental. This perspective has influenced the definition and legitimacy of law throughout the history of legal philosophy, leading to the development of the principle of natural justice.

The role of natural law in legal discourse has evolved over time, leading to various schools of thought about the nature and function of law and the principle of natural justice. To understand the impact of these theories on the evolution of law, we must first understand the differences between natural law and positive law. This chapter focuses on the foundational ideas of natural law theory and the principle of natural justice in the Western tradition, tracing its origins from

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ancient jurisprudence to its modern revival as a binding standard.

While this chapter is limited to the Western concept of the principle of natural justice, the study of its meaning in India and how courts view its legal power will be explored in subsequent chapters.

(A) Meaning and definition of natural justice

It is not possible to define "natural justice" in a static and precise manner, as it cannot be confined to a strict formula. In the past, natural law and natural justice were not distinguished, and natural justice was viewed as a component of natural law that pertained to administering justice. Although today the term "principle of natural justice" typically refers to certain procedural principles, it was previously used interchangeably with other phrases such as "natural equity," "eternal law," "the law of God," and "summum jus." Even now, the term is sometimes used synonymously with natural law. The utility of the concept of natural justice lies in its instrumental value for ensuring fair and equitable outcomes in the administration of justice, thereby rendering it indispensable in the resolution of a wide range of disputes across different legal domains. Esteemed thinkers and adjudicators within the Western legal tradition have further elaborated on the idea of natural justice as a framework for delivering justice in the context of conflict resolution. Lord Cranworth has given the definition of natural justice as it as "universal justice[4]"; Sir Robert P, Collier, took into account the phrase "the requirements of substantial justice[5]", Lord Esher M. R. has explained natural justice as "the natural sense of what is right and wrong", and in another case, Lord Esher, M.R. laid it out as 'fundamental justice[6]'. Harman L. J. countered natural justice with "fair plan in action". Lord Parker C. J. preferred to describe the natural justice as "a duty to act fairly"; Lord Russell of Killowen has also described that natural justice as a "fair crack of the whip" (Fairmount Investments Ltd. v. Secretary of State[7] for Environment, while Geoffrey Lane, L.J. has preferred the homely phrase 'common fairness'.

(B) The origins of natural law

Legal practitioners nowadays often rely on arguments based on Natural Law when dealing with aspects of a case that are not covered by existing Statutes or Case Law. However, in ancient times, jurists who developed the Law of the Roman Empire frequently referred to the nature of the case to settle matters not covered by authority. The compilers of the Corpus Juris of Emperor

[4] Drew v. Drew and Lebura; 1855 2 Macq. 1.)
[5] James Dunber Smith v. Her Majesty the Queen (1877-78) 3 AC 614 (PC));
[6] Hookings v. Somethwick Local Board of Health, 1890)24 QBD 712
[7] (1976) 1 WLR 1255

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Justinian in 535 AD used the phrase "Jus Naturalis" to distinguish things from what was covered by Jus Civile. From the use of the term 'natural,' the philosophy of the ancient West developed the concept of Natural Law. The theory of Natural Law is studied under two broad headings: Traditional Natural Law Theory and Modern Natural Law Theory.

a. The Traditional Theory of Natural Law: The conventional or tradiotional theory of Natural Law examines the ideas of Greek, Roman, and English philosophers from ancient times. In Greek philosophy, there was no distinction made between law and religion. The King was seen as the supreme judge, invested with the office by Zeus, the chief of the Olympian Gods, and law was believed to have been received from the Gods in the form of divine revelation. Religion was given priority over laws, and if there was ever a conflict between divine laws and temporal laws, the Greeks would defy the commands of secular rulers in favor of the religious order.

Aristotle believed that it was natural for humans to be part of a political organization, and that the reflective intellect of man possessed direct knowledge of the qualities necessary to draw conclusions through rational steps about what justice requires. This idea is often expressed in the statement that "man is a political or social animal". Therefore, his nature requires the establishment of rules that set up political organizations and impose mutual forbearances for the common good.

According to this view, since God is the author, promulgator, and enforcing judge of the law, there cannot be different laws in Rome and Athens, or in the present or future, instead, there will be one eternal and unchanging law that is applicable to all peoples and all eras[8].

b. Mediaeval Period's emphasis on Natural Law: The period between the decline of ancient civilizations and the Middle Ages saw the ascendancy of natural law as the predominant legal system. The clergy, seeking to expand Christianity across Europe and bolster the Church's power, adopted Natural Law ideas. Thus, Natural Law passed from the hands of secular thinkers of ancient times to religious preachers who gave it new meaning and a distinct source. The concept of Natural Law was debated by the Fathers of the Church before the fall of the Roman Empire. Augustine and Gregory, the founders of the Church, redefined the concept of natural law while still maintaining its continuity. Augustine believed that positive law must conform to the demands of the eternal law. The Church saw itself as the guardian of God's eternal law, and therefore held complete authority over the State. The Christian fathers

[8] 'De Republica', iii, XXH. 33.

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claimed to be the sole arbiters of what constituted just and unjust laws, asserting that earthly law should not conflict with the eternal law and that unjust earthly law could never be considered valid.

Aquinas provides the following "definition of the four types of law" throughout his consideration of these issues:

i. Aquinas's concept of Eternal Law describes it as a "directive of rationality that originates from the Ruler who oversees the ideal society." The natural law is inherent in the basic idea of how things are governed in the cosmos, as divine reason governs the entire cosmos. This law must be referred to as eternal because it is consistent with the divine reason's idea of reality, which is everlasting rather than susceptible to change.

ii. Law can exist in a person in two different ways: first, in the person who rules and measures, and second, in the thing that is governed and measured. The eternal law governs and guides all things that are subject to divine providence. Everything shares a portion of the eternal rule insofar as they draw their individual tendencies to their rightful acts and purposes.

iii. Aquinas defined a law as a practical reason's edict. Human reason has to go to the more specific decision of some issues from the natural law's precepts, as well as from general and undeniable principles. These specific decisions made using human reason are referred to as human laws, provided that the other fundamental requirements of law are upheld.

iv. In addition to natural and human laws, Aquinas believed that there must also be divine law to govern human behaviour. This was important for several reasons. First, law instructs man to carry out his correct deeds in light of his ultimate destination. Second, multiple and contradictory laws develop because different individuals make judgments on human acts differently due to the ambiguity of human judgment. Thirdly, man has the ability to create rules in situations when he is qualified to do so. The perfection of virtue, however, requires that man behave properly in both types of deeds. Man is not capable of judging internal motions that are concealed but only visible outer acts.

Aquinas argued that human law alone is insufficient to regulate human behavior because it cannot govern internal motives and intentions. Therefore, he believed that divine law is

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necessary to guide and restrain internal deeds. In his theory, Natural Law serves as the foundation for the binding nature of positive law. Aquinas emphasized the moral and holy nature of positive law, and his comprehensive theory of law is necessary to fully grasp the implications of his Natural Law Theory. According to Aquinas, "*Law is nothing other than an ordinance of reason for the common welfare, made by Him who has the care of the society... and is promulgated*.[9]"

The following can be used to explain the aforementioned dictum:

i. According to Aquinas, law is an ordinance of reason, and practical reason provides guidelines for how one should behave. Legislation seeks to direct behaviors, which falls under the purview of reason.

ii. Aquinas believed that the common good is the ultimate goal of law, and happiness is the foundation of practical reason. Law must pursue happiness, but not the pleasure of any one person or privileged group, rather the happiness of the entire population as the ideal society.

iii. The authority to establish laws is vested in Him who is responsible for looking after the society. Laws are intended to regulate the whole population, and therefore must be made by the entire population or by its representatives, suggesting a commitment to democratic or representative governance.

iv. Laws must be disseminated publicly, according to Aquinas, as people can only use the law as a guide and gauge for their behavior if they are aware of what it encourages or prohibits. A hidden or secret law would not be acceptable, as it would not allow people to behave accordingly.

(C) Theory of natural rights

Aquinas' approach to reasoning was influential in the development of the concept of natural rights by later authors. However, the proponents of Social Contract Theory often conflated the idea of natural rights with the notion of a social contract. There were differing views among the contractarians regarding the extent and importance of natural rights. Thomas Hobbes, for instance, rejected the idea that the Sovereign could be held politically accountable through any supra-state notion of justice. He believed that in the state of nature, people enjoyed natural liberty, but their lives were solitary, poor, nasty, brutish, and short. By agreeing to the Social

[9] Of the Essence of Law', Article 4.

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Contract, citizens surrendered their inherent freedom and submitted to an absolute sovereign.

John Locke, on the other hand, maintained that governments could be overthrown if they failed to protect certain inherent rights that existed in civil society and predated the social contract. In the 18th century, Immanuel Kant and Fichte supported the Natural Law philosophy and the idea of the "social contract," which they believed was based on "reason" rather than historical fact. While Kant differentiated between natural and acquired rights, he recognized only the former as essential for individual freedom. In his work, "The Critique of Pure Reason," he introduced his well-known theory of the "Categorical Imperative," which embodies two principles:

1. Individuals are expected to act according to their conscience, which is a fundamental human right of self-determination.
2. The principle of the "autonomy of the will" requires that actions should be based on reason rather than mere freedom to act as one desires.

According to Kant, an action is considered right if it can coexist with universal law and every person's free will.

(D) The modern theory of natural law

The idea of Natural Law, or the interpretation of law through a Natural Law lens, has a long history. However, the earlier works are often ambiguous and it is unclear whether the Traditional or Modern Theory should be considered the Natural Law Theory. The Modern Theory emerged in response to legal positivism, which challenged the Traditional view of Natural Law. Critics of Natural Law Theory, such as John Austin, Oliver Wendell Holmes, and Hans Kelsen, attacked the theory and its merits.

Fuller coined the phrase, "the enterprise of subjecting human conduct to the governance of rules," to describe the nature of law. Unlike other forms of guidance, law is a specific method of directing people. For a law to be considered legitimate, it must fulfill certain requirements relating to its methods and functions. Fuller identified eight prerequisites that must be met by the legal code for it to be considered law. These requirements are:

1. General applicability
2. Publicly promulgated
3. Prospective, not retroactive
4. Comprehensible
5. Consistent with other laws

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6. Not impossible to obey
7. Relatively stable
8. Enforced in a consistent manner

Fuller acknowledged that his concept of the Theory of Natural Law differed from the views expressed by classical philosophers, but he described his theory as a form of procedural natural law rather than substantive natural law

(E) Decline of natural law in western jurisprudence

In the 19th century, Natural Law theory faced opposition as analytical positivists rejected it. The focus on extreme individualism was replaced with a more collective perspective, and the a priori methods of natural law philosophers were deemed unsuitable in the new era of science. David Hume and August Comte discredited natural law, claiming it was ambiguous, unclear, and unscientific. Additionally, in the early 20th century, a question overshadowed the relevance of Natural Law: how could a law not written by Princes bind the Princes? Another challenge arose in reconciling morality and the law, with some claiming that there is no objective way to determine what is ethically right and wrong. David Hume is credited as the originator of this idea, which holds that we cannot infer an "ought" from an "is." The fall of Natural Law in the 20th century was brought about by legal positivism, which holds that no element of moral worth goes into the definition of law and that legal provisions are identified by empirically observable criteria such as legislation, decided cases, and customs.

Throughout the twentieth century, Natural Law witnessed a decline, which was largely attributed to the emergence of the term "legal positivism." Although this term has various interpretations, its proponents commonly adhere to two central tenets:

i. firstly, the idea that legal concepts have no intrinsic moral value, and
ii. secondly, that legal principles are determined through observable criteria such as legislation, judicial precedents, and established conventions.

Their contention is that only positive law exists, and thus, natural law is a non-existent construct.

(F) Revival of natural law in the second half of twentieth century

In the twentieth century, there was a resurgence of interest in natural law theory, which was seen as a reaction against the dominance of positivist legal theories in the nineteenth century. This renewed interest was due in part to the recognition that abstract thinking and a priori assumptions could be valuable, and that the purely positivist approach was inadequate to address certain social and political issues. The effects of materialism and changing socio-

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political conditions prompted legal thinkers to seek a more value-based approach to law that could prevent moral decline, particularly in the aftermath of World Wars. This new form of natural law theory, as described by Dr. Allen, was characterized as value-loaded, value-oriented, and value-conscious, as well as relative, changing, and variable, rather than permanent and eternal. It was also a reaction against the determinism of the historical school and the artificial finality of the analytical school.

Natural law has broad implications for ethical considerations, political philosophy, and legal doctrines. The Roman Catholic Church has leveraged natural law to assert its influence over ethical issues, as demonstrated by Pope Paul's reference to it in his 1968 opposition to artificial contraception. Similarly, in 1970, an English judge ruled "that a marriage between a male and an individual who had undergone gender reassignment surgery was invalid since it could not produce the typical biological consequences of marriage. The judge's verdict was based on his belief that marriage fundamentally entails a union between a man and a woman and that the prerequisites for marriage must be rooted in biology."

The concept of judicial supremacy, which positions positive law within a constitutionally prescribed moral framework, serves as evidence of the United States' adoption of natural law over the positivist legal philosophy. In contrast, in England, the notion of imperative law gradually displaced the juridical tradition starting in the sixteenth century onwards.

(G)Elements of the principle of natural justice

Across the course of history, the concept of natural justice has played a vital role in shaping legal systems around the globe. It is grounded in the natural law theory and serves to complement both aspects, i.e., customary and positive law, which are informed by human conduct and governmental action. In earlier times, natural justice encompassed a range of ideas, including ethics, morality, good faith, equity, and good conscience. In contemporary legal practice, however, the principle of natural justice embodies the minimal level of impartiality that must be maintained while adjudicating disputes, as epitomized by maxims such as ""Nemo Judex in Causa Sua" (no one shall be a judge in their own cause)" and ""Audi Alteram Partem" (hear the other side)."

The term "principle of natural justice" is often used in place of with principles of equity, fairness, and natural law. It refers to the general principles and minimum standards of fairness in adjudicating disputes that embody specific requirements, including that no man shall be a judge in his own cause ("Nemo Judex in Causa Sua") and each party shall be heard, and no man shall be condemned unheard ("Audi Alteram Partem").

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The principle of "Nemo Judex in Causa Sua" mandates that a judge must recuse themselves from hearing a case if they have a legal or financial stake in the verdict or if there is a genuine possibility of prejudice, such as from association with one of the parties or membership of an involved organization. The principle of "Audi Alteram Partem" requires a judge to provide all parties involved with an equal opportunity to present their case and give equal weight to their arguments.

There exist five essential conditions for upholding the principles of natural justice, namely, notice, opportunity to be heard, impartial tribunal, orderly proceedings, and reasoned decisions. When these requirements are duly met, natural justice is upheld, and an equitable resolution to a dispute is achieved.

Application of the First Principle- The Principle against Bias: Dimes v. Grand Junction Canal[10] is a significant legal case from 1852, which is considered an authority in modern times. It involved a lawsuit between a public company and a landowner over matters concerning the company's interests. The case was presided over by two Lord Chancellors, Lord Cottenham and Lord St. Leonards. However, it was discovered that Lord Cottenham had a substantial interest in the company, which he had so failed to be known by everyone, and irrespective of this fact he had ruled in favor of the company in the case.

The House of Lords subsequently declared Lord Cottenham's verdict unlawful, setting the standard that even a minor financial interest could potentially compromise a judge's impartiality. The ruling emphasized that any interest or bias must pertain directly to the issue at hand, rather than a general interest in the subject matter. Only a personal interest in a particular case that could sway a magistrate's judgement would disqualify them, rather than a broader interest in the matter under consideration. In Viner's Abridgement[11] it was stated that the Chancellor himself may have relief in the Court of Chancery, 'but he cannot make a decree in his own cause' - a Day v. Savadge[12] arrived a year after the Earl of Derby's Case. The concept in question was deemed to be so basic that it could not be altered, not even by a Parliamentary Act. Interestingly, the Earl of Derby's Case had a curious follow-up in 1668.

In Brookes v. Earl of Rivers[13], a request for a prohibition was made to stop a lawsuit in Chester where the Earl of Rivers was suing Brookies over the ownership of salt pits using an English bill. The reason for the request was that the Earl of Derby, who was the Chamberlain of Chester

[10] 3 HLC 579 in 1852
[11] Viner's Abridgement
[12] 213 Ga. App. 792
[13] 77 E.R. 1390

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and a judge there, had a stake in the salt pits. However, it was found that the Chamberlain did not have a financial interest in the outcome, and therefore no ban was imposed in this case. The relationship between the Earl of Rivers and the sister of the Earl of Derby was not automatically assumed to imply favoritism on the part of the judge.

Application of the second principle - The Principle of "Audi Alteram Partem" : The origin of this principle is traceable to the dawn of time. Fortescue J. in R v. Chancellor of Cambridge[14]. The idea that the principle of giving a chance to defend oneself dates back to the Garden of Eden is mentioned in a quote from 1973. According to this view, when the first offense on record was committed in the Garden of Eden, the party involved was given the opportunity to provide a defense under both the laws of God and man. It is said that even God did not immediately condemn Adam but asked him if he had eaten from the forbidden tree. This principle is believed to have existed in ancient times and is also mentioned by Seneca in one of his tragedies, the Medea as : "*Quia quicunque aliquid statuerit parte inaudita altera, acquum licet statuerit baud aequus fuerit*."

The passage provided has been frequently cited in judgments delivered by English courts, and is often referred to as a "Maxim" without any mention of its origin. Some people argue that the Magna Charta supported the "Audi Alteram Partem" concept, and Lord Coke appears to have concurred with them. The Magna Charta's actual words are "The body of no free man shall be taken, nor imprisoned, nor diseased, not outlawed, nor banished, nor destroyed in any way, and the King shall not go or send against him by force except by the judgement of his peers and by the law of the land," which is what King John meant when he said: "by the statutes of Magna Carta[15] no man ought to be condemned without answer." The courts freely ascribed a responsibility to uphold natural justice during the eighteenth century. In Capel v. Child, the bishop had the right to name a curate, who would be paid by the vicar because the vicar had disregarded his obligations.

The ruling in the Court of Exchequer, which required the bishop to provide the vicar with a hearing before appointing them, is an important example of the "Audi Alteram Partem" principle. However, it would be incorrect to claim that it is the most significant case on record, as there are other equally impressive cases. One such case is R. v. Electricity Commissioners[16], where the court established that any authority vested with legal power to decide matters regarding individuals' rights and having a duty to act judicially would be subject to the duty to

[14] (1723) 1 Str. 557
[15] ca.29 5 E 3 Cap.9 and 28 E 3 Cap. 5.
[16] 1924 1 KB 171

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act judicially. Nonetheless, Lord Reid clarified in Ridge's case that this statement did not imply that a duty to act judicially could be inferred solely from the nature of the conferred power; an additional obligation to act judicially was necessary. However, it could be argued that this narrow interpretation was a reflection of the judges' perspective rather than the underlying rationale. The judges' reluctance to overturn decisions that violated the principles of natural justice is evident from their differentiation between exercising disciplinary and judicial powers, where natural justice need not be followed, and between rights and privileges, where there is no entitlement to natural justice.

III. PRINCIPLE OF NATURAL JUSTICE APPLIED IN DIFFERENT JURISDICTIONAL SYSTEMS

Various legal systems around the world, including those in England, the United States of America, Canada, Australia, India, and other Common Law nations, have long recognized the importance of natural justice principles, although there may be variations in how they are interpreted and applied. Over time, these principles have gained global significance and are now observed not only just at the the state level but also at the international level. International tribunals such as the International Court of Justise, the International Administrative Tribunal, and the International Criminal Court apply these principles when adjudicating disputes brought before them by States. While some legal systems expressly require adherence to natural justice principles, in others, they are implicit in the administration of justice.

(A) The principle of natural justice applied by the English courts

1. The principles of natural justice in the English legal system have their roots in Justinian's rule, established in ancient Rome, that no one person is supposed to be a judge in their own case. Medieval civil and canon lawyers turned to the concept of natural law when faced with unclear or unprecedented legal situations. This idea held that “laws should be fair, just, and beneficial to all parties.” The Common Law courts of England followed a similar process, often citing natural law as a divine basis for their decisions. In the development of Equity, a parallel body of law to the Common Law, natural law was also significant. While the concept of natural law was once believed to be supreme, it now exists in English law only as the two procedural principles of natural justice. Day v. Savadge established that an Act of Parliament that goes against natural equity is void. In

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the City of London v. Wood[17] case, Holt C.J. affirmed the principle that the same person cannot be both a party and a judge in a case.

2. As per Viner's Abridgement, it was established that the Chancellor could seek relief but could not issue a decree in his own case in the Courts of Equity. Furthermore, according to the ruling in Day v. Savadge, Parliament was unable to abolish this principle. In the City of London v. Wood case, the concept of impartiality was reinforced, stating that no individual should preside over their own case. Similarly, in Dr. Bonham's case, Coke examined the College of Physicians' authority to censure its members for misconduct and contended that the censors were not exempt from the law.

a. **The first principle: principle against bias**

In the landmark case of Dimes v. Grand Junction Canal in 1852, Lord St. Leonards, then the Lord Chancellor, made a decision on the impact of the actions of his predecessor, Lord Cottenham, who was a shareholder in a company involved in the case. The Vice-Chancellor ruled in favor of the company and the Lord Chancellor upheld the decision on appeal. However, on further appeal to the House of Lords, it was held that the Lord Chancellor's decision was voidable as he had an interest in the case, and the Vice-Chancellor's decree could be appealed to the House of Lords as he was a judge independent of the Lord Chancellor. Lord Campbell emphasized the importance of upholding the maxim "no man is to be a judge in his own cause" as a fundamental principle, regardless of whether the judge is a party in the case or has an interest in the matter, to avoid any appearance of bias or partiality towards any party involved. The rule applies broadly to judicial decision-making and action more than to administrative decision-making and action, and it is crucial to ensure that "justice is seen to be done."

b. **The second principle**: **the principle of "audi alteram partem"**

From the time of the Year Book[18] The evolution of the notion of "Audi Alteram Partem", or the right to be heard, has long been a legal concept. The case law that has been developed over the last 250 years bears witness to man's desire to be fair. Dr. Bentley's case is one of the most well-known. J. Fortescue states that the law of nature requires that every individual be present before he may be punished, and that if he is absent by contumacy, he should be summoned and made default.

The development of the ""Audi Alteram Partem"" rule can be traced back to earlier times and

[17] 88 E.R. 1592
[18] For example, 8 Ed. 2.2. 382;5 Edw. 3;7 I len, 6, 37;39 I len. 6. 32;9 Edw. 4. 14.

the relevant cases fall into four divisions. The first division consists of cases concerning summary proceedings before justices. The second division includes cases that deprived officers and dignitaries of their offices. The third division deals with regulations regarding the clergy. Finally, the fourth division includes the decisions of tribunals charged as for the responsibility of deciding matters involving the civil rights of individuals.

In the United Kingdom, even though civil servants hold office at pleasure or under statutory or contractual procedures, they are given an opportunity to be heard in their defense when charged with misconduct. The case of Rodwell vs. Thomas illustrates this development of the principle. In this case, a serious charge was made against the plaintiff which might give rise to criminal proceedings. After an oral hearing by a domestic tribunal, the plaintiff was dismissed. In a move by by the plaintiff, it was held that even though the charges might bring about the dismissal of the civil servant, it is fair and reasonable that the civil servant should be given some opportunity of being heard.

It is important to note that the duty to hear both sides before making a decision is undoubted. However, some duty must be disregarded before even error results. The development of the "Audi Alteram Partem" rule has been a fundamental principle in ensuring fairness and justice in the law. individuals[19].

1. The principle of "Audi Alteram Partem", which means "hear the other side," is fundamental to the administration of justice in various courts of special jurisdiction. In the case of R. v. Bonn and Church, Lord Kenyon ruled that a party must have a chance to provide justification for why an execution should not proceed against them. This can only happen if there is a summons for the payment of poor rates prior to the issuance of a warrant of distress, which is in the nature of an execution. Parties to an action are entitled to be heard in their presence, contest their opponent's case, cross-examine their opponent's witnesses, and call their own witnesses and present their own evidence before the court. This was most recently stated by Jenkins L.J. in Grimshaw v. Dunbar.

The American legal system, like the English legal system, follows the principle of natural justice in administering justice. The legal principles of Sir Edward Coke's common law were brought to America by expert lawyers, and when the founders of the American Constitution were drafting the federal Constitution, they considered the Due Process provisions of the common law to be of utmost importance. The Due Process clause states that "no individual in the United States can be deprived of their life, liberty, or property without the due process of law." This

[19] The case of Talleyrand v. Boulanger.

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provision is found in both the Fifth and Fourteenth Amendments and ensures that no one who is subject to the legal system can be penalized without receiving a fair trial. Both parties before courts and tribunals are entitled to procedural rights, and the phrase "due process of law" connotes basic reasonableness, fairness, and the absence of arbitrary and whimsical action by government officials. In criminal prosecution, this has been refined by judges, but the idea remains essentially the same.

If a person is convicted for some offfence for which he is later on sent to prison, they may raise the contention that they are being deprived of their freedo without due process of law. To prove this, they must demonstrate that in some essential respect, the conduct of the prosecution was arbitrary or their trial was unfair and their conviction unjust. The Apex Court of India has often tried to clarify the meaning of "due process."

2. Other countries that follow natural justice principles: The legal systems of the following nations allow for the application of natural justice principles to cases that are brought before them in order to determine the obligation and rights of the concenrned parties that are involved. When the wording of the legislation or the Statute is silent concerning the application of any other principle not covered by the statute, the legal systems of these nations expect the judges to apply these principles. Some legal systems even go so far as to penalise judges whose actions in cases not governed by statutes or other authorised texts violate the fundamental rules of civil law.

a. Judges in France can be prosecuted for denial of justice if they refuse to rule on a case due to silence, obscurity, or insufficiency of the law. The draft of the French Code had an article that complemented this, stating that in the absence of specific provisions, judges act as ministers of equity, which refers to natural law or accepted usages when positive law is silent.

b. In Austria, when the wording or natural meaning of a written provision is insufficient to address a matter, comparable instances explicitly provided for in other sections of the law, as well as principles of related laws, are taken into account. If the matter remains unresolved still, it is adjudicated based on principles of natural law, while considering all relevant facts.

c. In Chile, when a provision's broad principles of interpretation are not applicable, ambiguous or inconsistent paragraphs are construed in a manner that aligns with the general intent of the legislation and principles of natural justice. Professional

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legal experts prioritize the legislative purpose and policy over technical rules and use their expertise to harmonize any contradictions within the text.

d. In situations where conventional standards of interpretation are inapplicable, Ecuador adopts a similar approach to Chile, whereby obscure or contradictory paragraphs are construed in a way that aligns with the fundamental principles of the legislation and natural justice.

e. In El Salvador, in cases where previous standards of interpretation cannot be applied, a similar approach to that of Ecuador and Chile is taken. In such instances, unclear or conflicting provisions are interpreted in a manner that best aligns with the general purpose and intent of the legislation, as well as principles of natural equity.

f. In Italy, if a legal issue cannot be resolved through a specific provision in the written law, rules that govern similar and related cases are taken into account. If the matter remains unresolved, it is determined based on broad legal principles.

g. In situations where a question of rights or responsibilities cannot be resolved by the text or meaning of a written law, natural law principles are applied, and all relevant factual circumstances are taken into account.

h. In Colombia, natural law principles and legal standards are used to clarify the constitution when there is ambiguity, and legal interpretation is guided by constitutional theory.

IV. PRINCIPLE OF NATURAL JUSTICE APPLIED IN THE INDIAN LEGAL SYSTEM

Throughout history, natural justice principles have been instrumental in shaping the adminstration of justice from a very long time across various legal systems of the world particularly in the Western world. In England, for instance, "the principle against bias and the right to be heard ("Audi Alteram Partem")" are two of the most fundamental principles guiding the legal system. Over time, other theories were also developed by the common law and equity courts.

Likewise, in India, the concept of natural justice, which is also referred to as the "Principle of natural justice," has been fundamental to the legal system since its inception and is rooted in the ancient principle of dharma. Although these principles cannot be universally applied, they have been instrumental in resolving conflicts and upholding justice in both public and private law contexts.

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Today, the natural justice principles continue to serve as a basis for challenging the actions of public authorities in court and seeking remedies for wronged parties. Any breach of these principles is deemed invalid and can be challenged in court, according to established jurisprudence.

The nature and application of the Natural Justice Principles are covered in the second part. The instances that demonstrate how the principles are applied to diverse Public Law issues are also covered in this discussion. The third part of the article discusses the legal theories that have emerged as a consequence of the application of natural justice concepts to diverse situations.

(A) Indian jurisprudence's view of natural justice

a. 5000 years ago, ancient Indian philosophers and thinkers proposed the concept of natural law as a means of establishing a peaceful social order by balancing the spiritual and material aspects of life. This moral law was said to embody universal values such as righteousness (Dharma), wealth (Artha), desires (Karma), and salvation (Moksha), and was considered higher than positive law. The Indian thinkers were motivated by the search for harmony, balance, wisdom, and truth, and emphasized the fulfillment of life's objectives in accordance with the guidance of Dharma. They believed that upholding Dharma, as the source of Artha and Karma, was essential, it would also grant us Artha and Karma[20].

b. Accordingly, The concept of Dharma was integral to Indian culture and represented the ideal way of living, serving as the basis for social order. Unlike absolute or static laws, the law of Dharma was dynamic and changed in response to societal demands and advancements. The Hindus' intellectual curiosity led them to examine everything, including their beliefs, the world around them, and their own experience. They excelled at articulating philosophical objectives and building scientific conceptions and procedures that have significantly impacted human law and daily life, similar to the Greeks and Romans. The law of Dharma was developed alongside the Vedic Rita and eventually came to be recognized as rigorous customs, laws, or responsibilities in general, which addressed nearly all requirements of the changing circumstances. It evolved into a set of obligations to deities, sages, mankind, and lesser beings.

The law of Dharma and truth was explored and refined with great dedication, representing a significant accomplishment in the history of philosophical thinking. The concept of Dharma developed alongside the Vedic Rita, and was notably expanded upon by Manu. It eventually came to be recognized as a set of rigorous customs, laws, or responsibilities that addressed

[20] Bhavan's Journal: page 123, Annual-cum-lndependence Number, Vol. XX, No.I, August 5, 1973.

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nearly all requirements of the changing circumstances. The Vedic idea of Rita was largely replaced by the concept of Dharma in the Brahmanas, as the former was deemed insufficient for the increasingly complex social organizations of the time. Over time, Dharma evolved into a set of obligations to deities, sages, mankind, and lesser beings. This information was originally published in Bhavan's Journal, Annual-cumulative Independence Number, Vol. 1, page 123, No. I, XX, August 5, 1973.

Panini, an esteemed grammarian of the Sanskrit language who lived in the fifth century BC, explains Dharma as a form of religious merit, customary practice, and usage. In the Mahabharata, it is prescribed that Dharma is necessary for the advancement and development of all creatures, to prevent creatures from harming each other, and to sustain all creatures. Consequently, Dharma has developed to denote morally correct conduct, ethical obligation, religious virtue, ideal, and ultimate truth. It also came to mean as a result to be universal law or principle, dividne justice, and a convectional code of customs and traditions[21]. It pertains to castes, families, organisations, and hierarchies of existence, as well as charity and expediency, and is not straightforward and unitary but rather numerous and complicated.

During the Middle Ages, the British introduced several concepts to India's legal system, including common law, justice, equity, and good conscience. They established courts modeled after the English system of justice, which incorporated the ideas of Natural Justice into Common Law and Equity. British officials presided over Indian courts and used these ideas to decide cases. Precedents were established by incorporating natural justice ideas into various court rulings, many of which still serve as precedents today. The Indian Legislature has incorporated the principle of ntural justise into various statutes as it has deemed necessary. Following India's independence, the Constitution allowed for the incorporation of natural justice concepts into the judicial system. The Constitution mandates that authorities behave rationally, fairly, and equally in several sections. For instance, Article 19 permits the Union or State legislatures to impose limitations on fundamental rights, but the limitations must be fair and based on specified justifications. Courts have described the general nature and scope of natural justice principles in several instances. These ideas were not originally created by the author of this text.

(B) Nature and scope of the principle of natural justice

Justice Pasayat, of the Indian Apex Court, provided a comprehensive description of natural justice in the case of Canara Bank v. Debasis Das[22]. According to Pasayat, natural justice is

[21] Gokhale, B. G.: Indian Thought through Ages; page 24-27, Asia Publishing House, New Delhi, 1961
[22] AIR 2003 SC 2041

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equivalent to common-sense justice, and the rules of natural justice are not codified canons but are principles that are ingrained into the conscience of humanity. Pasayat further noted that natural justice involves the administration of justice in a liberal and common-sense manner.

Justice is rooted in natural principles and human values, and should not be limited by strict and technical criteria found in legal language. The nature of justice itself should guide its application, rather than making a clear distinction between "natural justice" and "legal justice". This very PoNJ consists of rules that have been established by the courts to provide the minimum protection of an individual's rights against arbitrary procedures used by judicial, quasi-judicial, and administrative authorities while making orders that affect these rights. These guidelines are meant to prevent such authorities from engaging in unfair practices. The Indian Supreme Court has stated in several cases that these rules are not embodied rules, and whether the principles have been upheld in a particular case depends on the facts and circumstances of that case.

a. Application of the Natural Justice Principles to Criminal Justice Matters: The Natural Justice Principles hold great importance as they provide grounds for contesting any decision made by a justice-administering authority, on the basis that these principles were not followed during the action or implementation of the decision. If the Court finds that certain natural justice standards were not followed by the relevant authority, it will nullify the judgment and order the issue to be reevaluated. These principles have been codified by the legislature in statutes on various issues, making them applicable to almost every area of law, including criminal law. Even if the principles of natural justice are not explicitly stated in the statute, the affected party can request the Court to apply them, which will be decided through an interpretive process by the Court.

"Principle of natural justice" is a word that is frequently used interchangeably with terms like "Principles of Equity"' "Principles of Fairness," "Natural Law," etc, criteria of justice in deciding a dispute that embody the specified requirements that a person is not permitted to assess his or her own case Each side will be heard ("Nemo Judex in Causa Sua"), and no man be judged without hearing ("Audi Alteram Partem"). The first tenet compels a judge to reject a case if he has any financial or legal conflicts. whether there is any genuine chance or interest in the decision's outcome appearance of prejudice, such as that resulting from party affiliation or membership in a relevant organisation. The second tenet calls for a judge. giving all or all sides of a dispute an equal chance to be heard, and to give each of their submissions equal consideration.

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The principle of "Nemo Judex in Causa Sua" holds that a judge must not decide a case in which they have any form of bias or interest. This includes any potential biases that may influence their decision-making process, whether it be financial prejudice, personal bias, or topic matter bias.

On the other hand, the principle of "Audi Alteram Partem" requires that the opposing side be given a chance to be heard by the judge who is hearing the case. This principle ensures that a person's rights under the law are protected, and their personal information is not used against them without due process. This rule is generally followed in judicial proceedings, regardless of whether the government authority used was a tax power, an eminent domain power, or a police power. Furthermore, it also applies to executive and administrative activity.The following are the prerequisites for "Audi Alteram Partem":

(i) notice;

(ii) opportunity for hearing;

(iii) an impartial tribunal;

(iv) a well-organized course of proceedings; and

(v) conclusions supported by reasoning.

"The first principle of natural justice is the rule against bias", which applies to judges, juries, and arbitrators, making it essential for all judicial and quasi-judicial proceedings. In the case of Rex v. Sussex, a claim was filed by W for compensation after an accident between his motorcycle and one operated by M, where W claimed that M's recklessness caused harm to him and his wife. The Police had also issued a summons to M for reckless driving. Following the hearing, the Justices retired to deliberate, and the deputy clerk retired to be available for legal guidance if necessary, but he was not consulted. The Justices found M guilty and imposed a fine of 10 pounds and costs. It was later discovered that the deputy clerk was the brother of W's counsel, which was brought to the Justices' attention. The question before the court was whether the judgement was void due to bias. Lord Hewart, C.J., ruled that the judgement was invalid due to bias, and other Law Lords agreed.

In the case of K. Vijaya Bhaskar Reddy v. Government of Andhra Pradesh, the central issue pertained to the applicability of the Principle of Natural Justice, which prohibits unfairness, in all legal and quasi-legal proceedings, including Commissions of Inquiry established under the Commissions of Inquiry Act of 1952. The Andhra Pradesh High Court examined a specific case where a One-Man Commission was established to investigate irregularities in the Andhra

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Pradesh State Film Development Corporation and the Film Nagar Cooperative Society, during the time when the petitioner was serving as Chief Minister. The court held that the rule against bias is essential to ensure the Commission's impartiality and protect the rights of individuals dealt with under the Act. The court also established that individuals have the right to raise concerns of bias to ensure that proceedings are conducted fairly and in compliance with the law. Nonetheless, in this particular case, the court did not find any evidence of bias on the part of the retired judge appointed to the Commission.

As per the Indian Supreme Court, all members of a panel must have the ability to perform their duties with impartiality and judicial diligence, whether in legal or quasi-legal proceedings. The court stressed the importance of impartiality among judges, as it is crucial to the administration of justice and to maintaining public confidence in the justice system. In addition, magistrates are required to adhere to principles of natural justice by providing affected parties with notice and a fair hearing before issuing an order under Section 33 of the Act.

b. Paraphrase: The Principle also applies to disciplinary proceedings against civil servants of the state, just as it does in disciplinary proceedings against students and individuals from other sectors of public life.

The principles of natural justice are not confined to a single document but are scattered throughout several legal texts. These principles apply in a broad range of circumstances. The Indian Constitution is the primary legal framework that incorporates certain principles into its provisions, particularly in relation to the application of natural justice to government officials. Some of the principles have also been included in statutory laws by both the Union and State governments, while others have arisen from judicial decisions. As a result, not all principles are included in a single statute, and the statutes do not cover all aspects of natural justice. This discussion focuses on the extent of natural justice principles relevant to disciplinary actions against government officials. It is important to note that the Indian Constitution safeguards civil servants from arbitrary removal, promotion, or dismissal.

Article 311 of the Indian Constitution delineates that a member of the civil service of the Union, all-India service, civil service of a State, or holding a civil post under the Union or a State, cannot be dismissed or removed by a lower authority than the one who appointed them. The second clause of the article prescribes that such individuals cannot be dismissed, removed, or demoted without a proper investigation. This investigation must include informing the person concerned of the accusations levelled against them and providing them with an adequate opportunity to defend themselves. The findings of the investigation will form the basis of any

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penalties to be imposed, if any.

The aforementioned law signifies that a public employee is entitled to a reasonable opportunity to be heard before facing termination, removal, or downgrading of employment. The case of State of Orissa v. Dr. Binapani Dei is notable in the context of natural justice principles in disciplinary proceedings. In 1957, anonymous letters were received alleging age falsification by Dr. Dei, but no immediate investigation was conducted. It was only on August 23, 1961, that the Secretary to the Government in the Health Department informed Dr. Dei that the government had received information indicating irregularities in her age during her admission to Ravenshaw Girls School. The government requested that she explain why May 9, 1907 should not be considered as her date of birth based on the entry in the Admission Register of the first-year class. At first, Dr. Dei stated that she did not recall attending Ravenshaw Girls School, but after some correspondence, she examined the Admission Register in the presence of the Director of Health Service and officers of the Vigilance Department. Finally, on March 19, 1962, she wrote a letter pointing out irregularities in the entries regarding her age in the Ravenshaw Girls School Admission Register.

During an enquiry into the first respondent's date of birth, Dr. S. Mitra was tasked with preparing a report. He heavily relied on a letter from the Principal of Lady Hardinge Medical College that indicated the first respondent's birth date was April 4, 1908. Although the first respondent was shown the letter during the enquiry, she did not respond to it. A notice was later issued on September 28, 1962 stating that her date of birth was intended to be treated as April 1907, based on the First Year Class Admission Register. The first respondent was then asked to provide reasons why this date should not be accepted. However, Dr. Mitra's submissions to the State Health Department, including the entry in the Ravenshaw Girls School Admission Register stating her date of birth as August 22, 1906 and the report of the Principal of Lady Hardinge Medical College, were not disclosed to the first respondent. The court held that the state should have presented all the information to the first respondent and asked for an explanation and proof of her date of birth. Although Dr. Mitra conducted a preliminary investigation, the results were not communicated to the first respondent.

Despite being asked to justify the rejection of April 16, 1907 as her date of birth, the order was issued without any supporting evidence. The court held that such an investigation and ruling went against fundamental principles of justice and were therefore invalid. The court underscored that natural justice principles must be followed in administrative decisions that have civil consequences, including notifying the respondent of the government's stance and supporting evidence, as well as providing them with an opportunity to present their case and

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respond to the evidence. As these steps were not followed, the State's decision was rightfully overturned by the High Court. The Supreme Court of India also examined whether government employees have the right to be represented by legal counsel, and if such a right is inherent to the principles of natural justice.

c. Application of the Principle of natural justice to Disciplinary Proceedings of Educational Institutions: The Principle of naetural justise are relevant to a wide range of disciplinary concerns. The one specific area in which the applicability of natural justice principles is crucial is "disciplinary proceedings," or situations in which authorities take action against people on the grounds that they have broken the standards of conduct.

T Disciplinary procedures may not be as serious as criminal proceedings, but they can significantly impact a person's rights, and are applicable in a variety of institutions such as those governing labor-management relations, governmental bodies, religious groups, educational institutions, and professional organizations. The governing bodies responsible for conducting these procedures are obliged to adhere to the natural justice principle; otherwise, the process will become null and void. The primary objective of this principle is to ensure that justice not only prevails but is also perceived to have been served. Educational institutions, ranging from secondary schools to universities, are responsible for addressing disciplinary cases related to student admissions, exams, and violations. While these institutions have always had their own established procedures, there is now a greater emphasis on ensuring that disciplinary proceedings are conducted in accordance with fairness and natural justice principles.

The Principle of natural justice centers around the idea of fairness, with key tenets including "No person shall be condemned without hearing" and "No man shall be a judge of his own cause." Thus, disciplinary authorities must ensure that there is notice provided, an impartial tribunal to hear the case, a fair hearing, and a reasoned conclusion once the matter has been resolved. These concepts are rooted in the English Common Law and Equity.

d. The application of natural justice principles to disciplinary issues involving the armed forces is a topic of significant debate in public law. While the armed forces are viewed as being outside the bounds of natural justice, some scholars argue that natural justice should apply to disciplinary matters in the armed forces. However, this position is not widely accepted by those who write and enforce the laws governing the armed forces. Total and unwavering loyalty is considered the foundation of the natural order of the armed services, and this loyalty is reinforced through military training and

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ceremonies that have a strong psychological component. Soldiers in the Army are taught to be patriotic, and any challenge to a superior's authority is seen as disobedience, which must always be avoided. As such, the idea of natural justice is viewed as incompatible with the armed forces.

Under the Indian Constitution's Section 33, the armed forces are composed of various individuals, including those tasked with maintaining public order, individuals employed by the government for intelligence and counterintelligence purposes, those working in the telecommunications industry, and those employed in the military nursing service. While these individuals are considered members of the armed forces, the application of natural justice principles to disciplinary matters involving them is a matter of debate.

This illustrates the broad definition of the term "Armed Forces" to include non-combatants who are still considered members of the Armed Forces, even if they are not subject to military law. The phrase "Forces charged with the maintenance of public order" is a clear reference to the police forces. Within the Army Act, commanders at various levels have the power to administer justice within the Army. While court martial verdicts cannot be appealed in civil courts, current legislation ensures that justice is carried out by allowing these decisions to be subject to judicial review. For instance, commanding officers can make summary dispositions in line with AA Sec. 80.

Under the Military Law of India, all cases are reviewed by relevant record officers, and if punishments are deemed illegal, excessive, or unjust, they are reviewed by the appropriate authority. The military law is comprehensive and effective in maintaining discipline in the Army. However, there is a growing trend among army personnel to seek justice in civil courts. In some cases, the High Courts and Apex Court of India have intervened in decisions made by courts martial and administrative decisions made by the Army authorities in service matters. In these cases, the civil courts have directed the military authorities to provide relief. This situation has arisen due to mishandling of cases by the authorities, such as their ignorance of legal provisions, inability to interpret rules, arbitrariness, and undue delay.

"Army is always on the alert for repelling external aggression or suppressing internal disorder so that peace loving citizens enjoy a social order based on the rule of law; the same cannot be denied to the protectors of this order." The case of Ravi Bhatt and others v. The Director General Armed Forces Medical Services[23] and others saw the Madras High Court rule that the procedures employed by the Court of Enquiry were unjust and did not adhere to the principles

[23] AIR 1997 Mad 78, (1996) IIMLJ 220

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of natural justice. However, it should be noted that a petition filed under Article 32 of the Constitution cannot challenge Court Martial procedures based solely on a breach of natural justice principles, if the Court Martial followed legislative requirements and did not violate Article 21. Additionally, the validity of the Army Act cannot be contested on the grounds that it infringes upon fundamental rights, such as the right to association under Article 19(a)(c), which has been restricted by provisions outlined in Section 4 of the Army Act, 1950.

In the Achutan v. Union of India legal case, it was recommended that rather than directly including restrictions in the law, the Parliament could authorize the Central Government to impose limitations in conformity with the law and Article 33. Article 33 dictates that any limitations must be essential to ensure the proper execution of duties by the Armed Forces and to maintain discipline among their members. The same proposition was reiterated in the Viswam v. Union of India case. Likewise, in the Major Gen. Inder Jit Kumar v. Union of India case, the Supreme Court of India reiterated that court martial proceedings cannot be contested based on non-compliance with the principles of natural justice. This case dealt with a review of Sections 109 and 191 of the Army Act (Act No. 46 of 1950) by the Supreme Court of India.

e. Application of Principle of natural justice to Administrative Proceedings: The demarcation between administrative and quasi-judicial powers is becoming increasingly blurred, and multiple factors need to be taken into account when determining whether a power is administrative or quasi-judicial. These factors include the nature of the power, the individuals who hold it, the legal framework, the implications of exercising the power, and the expected way of exercising it. In India, administrative bodies' jurisdiction is rapidly expanding as it is a welfare state governed by the rule of law. To maintain the rule of law, it is essential for governmental bodies to perform their duties fairly and equitably. To act judicially implies acting justly and impartially rather than arbitrarily or whimsically. The procedures implemented to exercise judicial power are structured to produce a rational and impartial decision. Recently, there has been a shift in the understanding of quasi-judicial authority, with several functions previously classified as administrative now being regarded as quasi-judicial. In the case of State of Orissa v. Dr. Binapani Devi, Justice Shah articulated that an administrative order that has adverse effects should adhere to natural justice principles, and the respondent should be informed of the State's position. Similarly, in Suresh K. George v. University of Kerala, the Supreme Court of India held that the principles of natural justice must be

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tailored based on the facts and circumstances of the case, the legal framework, and the composition of the tribunal or decision-making body.

(C) The legal and equitable doctrines

In the present day legal system the Principle of natural justice represent more than two principles discussed in the previous chapter. As stated in the introductory part of this work, the expression "Principle of natural justice" is used as a synonym for Natural Law. By applying the rules of Natural Law to various matters; civi I and criminal, the courts formulated certain Doctrines which are of fundamental importance in the Administration 'of Justice.

The significance of these doctrines is that they are applicable to other resolution of disputes brought before the courts notwithstanding the written provisions of law. Although these doctrines have their origin in English law they are part of the judicial methods in India, The petitioners say on the basis of these doctrines asset their claims and defend any action against them. The exercise of jurisdiction by the Courts in various matters including the Writs is subject to these Doctrines. In other words these Doctrines are evidence of the supremacy an enjoyed by Natural Law in the legal system of our country. This section is devoted therefore to a study of the Legal and Equitable Doctrines on the hub of which revolve the wheels of the system of Justice in India.

1. Doctrine of legitimate expectation

The concept of the doctrine of legitimate expectation is a recent and significant development in administrative law, allowing individuals to seek judicial review of the government's actions in granting licenses. The basis of this doctrine is that the government must act fairly and be accountable for its actions. The courts exercise this jurisdiction to enforce the rights of individuals that fairness demands, in addition to the principle of natural justice. In his book, "Administrative Law[24]," Professor H.W.R. Wade explains that the courts expect government departments to honour their published statements or treat citizens with full personal consideration. The doctrine of legitimate expectation can be applied to cases of unreasonableness and violation of natural justice. The Indian Supreme Court, in Union of India v. Hindustan Development Corporation, held that legitimate expectation gives the applicant sufficient locus standi for judicial review, and it is mostly confined to the right to a fair hearing before a decision that negates a promise or withdraws an undertaking. The doctrine does not provide the scope to claim relief from administrative authorities straightaway as no crystallized right is involved. The protection of legitimate expectation does not require the fulfilment of the

[24] WADE & FORSYTH'S ADMINISTRATIVE LAW, 12TH EDITION, OPU OXFORD

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expectation where an overriding public interest requires otherwise. Therefore, even if substantive protection of such expectation is contemplated, it does not grant an absolute right to a particular person. It simply ensures the circumstances in which that expectation would arise when a body by representation or past practice aroused expectation that it would be within its powers to fulfil.

2. Doctrine of promissiory estoppel

Promissory estoppel is a principle that obligates parties, including the government, to honor the promises they make. It is an equitable doctrine designed to prevent injustice, and does not rely on any contractual or legal basis. In essence, promissory estoppel posits that if one party makes an unambiguous promise that is intended to create a future legal relationship and the other party relies on it, then the promisor is held to the promise. The promisor cannot renege on the promise if it would be unfair, given the parties' conduct and expectations. This is true even if the parties had no prior relationship or agreement. The principle is variously known as "equitable estoppel", "quasi-estoppel", or "new estoppel", and can be applied against the government, with no defense based on executive necessity.

The principle of promissory estoppel is an equitable doctrine that can be overridden when considerations of fairness demand it. If the government can demonstrate that enforcing the promise would be unjust in light of subsequent developments, the court will not enforce it against the government. While a formal contract is not necessary for the doctrine of promissory estoppel to apply, the law requires that the promisor made the promise with the expectation that the promisee would rely on it and that reneging on the promise would be unfair. This requirement means that promissory estoppel is not an absolute doctrine and can yield to competing equitable considerations.

3. Doctrine of lucus standi

The principle of Locus Standi pertains to the right of a party to appear and be heard by a tribunal in any legal proceeding. However, the application of this principle is not uniform across all cases; in some instances, such as those involving damages, injunctions, or declarations, individuals who have no connection to the case may not have locus standi to approach the Court. In England, an "aggrieved person" can bring an action for injunction as a relator in the name of the Attorney General; in other cases, the "person aggrieved" must demonstrate a personal interest in the subject matter of the suit. The interpretation of any applicable statute is subject to judicial scrutiny. In some legal systems, only an "aggrieved person" is required to initiate a Writ process. However, the Indian Constitution does not contain such a provision. In such cases,

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it is customary for a person who feels wronged to take individual action. Justice Bhagwati held that "any member of the public" may approach the Court for redressal of grievances in instances where a specific public injury has been caused to a determinate class or group of persons who are unable to approach the Court due to poverty, disability, social disadvantage, or economic disadvantage. Whether the individual seeking relief from the Court has a "sufficient interest" will be determined by the Court on a case-by-case basis.

4. Doctrine of res judicata

The principle of Res Judicata holds that a matter already decided by a competent authority cannot be challenged or reopened by either the original parties or their successors in interest. This principle has been a fundamental aspect of administering justice in civilised states for centuries, with the goal of ensuring finality and the impracticality of re-litigating cases that have already been decided by a court. Res Judicata applies only if the parties, the issue, and the presentation method are the same as those in the previous court ruling. Unlike Stare Decisis or binding precedent, which is focused on accepting a legal rule as settled, Res Judicata is concerned with the conclusiveness of a court's decision in a specific dispute between specific parties. Res Judicata only binds the parties involved in the dispute, while Stare Decisis binds all parties. In public law, Res Judicata is frequently applicable when a case that has already been decided by the Apex Court of India or the High Court is sought to be re-agitated in either court's Writ Jurisdiction.

5. Doctrine of laches

Laches is a legal word that refers to a wilful delay or carelessness in asserting one's legal or equitable rights or claims. The motto "Vigilantibus Non Dormantibus, jura subvanit" serves as its foundation. The completion of the investigation, prosecution, and trial must be place within a time of 223 limitations because laws pertaining to criminal culpability recognise that excessive delay may have a negative impact on a number of case-related factors. Similar to this, statutes governing civil liability provide a time frame within which any claim pertaining to a civil situation shall be submitted before the court and a remedy sought from the proper authority. The procedural law, in the form of the law of limitations, is concerned with the matter of remedies whereas the substantive law is concerned with the issue of rights. The Law of Limitations' inclusion of the laches concept has an impact on how rights are enforced. Delay will result in the denial of the remedy. The notion of laches is designed to signify this.

6. Doctrine of public interest litigation

The principle of locus standi establishes that only an individual who has sustained a legal injury

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or is likely to suffer an injury due to a violation of their legal rights may seek legal redress. The right to judicial relief is predicated on the harm caused to one's person, property, reputation, or mental health by a real or anticipated infringement of their legally safeguarded interests. Despite its antiquity and origins in the era of private law predominance, the Indian Supreme Court in the case of S.P. Gupta v. Union of India recognized several exceptions to this principle that had been developed over time by the courts. The case of Reed Bowen & Co. and Sidebotham & Co. were cited as examples.

The verdict in the K.R. Shenoy v. Udhipi Municipality[25] case clarified that a ratepayer could challenge the legality of a local government's decision to grant a cinema license to a particular individual. The Supreme Court of India affirmed that any member of the public who has a significant interest in the matter may seek a judicial remedy for a public injury arising from a breach of public duty or a violation of the Constitution or the law and seek enforcement of such public duty and compliance.

7. Doctrine of proportionality

The argument made in Rajesh Kumar V. Institute of Engineers India[26] is that complete resemblance in answers provided by applicants cannot be deemed to be suggestive of the use of unethical techniques. The report of the Committee was based on an Examiner's concern or uncertainty, and the University recorded the contested order after the Committee accepted the Examiner's version of events. Even if the allegation of unfair tactics had some merit, the University would still be required to examine the punishment's proportionality. The letter that the parents of the students wrote to the university would include all of the family's problems, not just those of the students. The Court held that the challenged order of the responding University was invalid as it was based on an individual's perception and apprehension and without any supporting data.

The Committee's report was never given to the students, and there was a breach of the natural justice standards. The Court finds that the University's decision to cancel the results, bar the students from taking one examination, and impose a fine of Rs. 500/- on each student is unjustified and must be quashed and set aside. It is regrettable that the University delayed a year to decide on the attribution of unfair means, and must develop a plan to prevent accusations of unfair methods against the students. The University is required to announce the results within a week, and the students are free to participate in the next exam.

[25] 1974 AIR 2177, 1975 SCR (1) 780
[26] (1998) 120 PLR 706

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V. EXCLUSION OF PRINCIPLE OF NATURAL JUSTICE

The principle of natural justice is a shared goal between the legislature and the court, as both aim to uphold the rights of the people and promote the public interest. However, despite being a fundamental aspect of legislation, natural justice principles can be disregarded in certain cases for the sake of public interest, which is a paramount concern for all institutions, including courts. In modern welfare states, public interest involves addressing socio-economic inequalities, ensuring equitable distribution, promoting social justice, and eliminating discriminatory practices. Laws enacted to achieve these objectives cannot be considered as embodying natural justice principles as it may not serve the public interest properly. Hence, the legislature may exercise its full authority without necessarily following the principles of natural justice. Moreover, in the interest of maintaining societal peace, stability, and maximizing resource utilization, limitations on individual rights may be imposed despite natural justice principles.

When resolving disputes that affect individuals, it is essential for the judgement to comply with all the principles of natural justice. However, there is a question of whether the legislative branch of government should also adhere to these principles while carrying out its duties. This issue also extends to the Executive branch, which sometimes carries out legislative functions under delegated authority, and whether it should promptly consider the views of those who will be impacted by legislation or quasi-legislation. In India, the application of natural justice principles goes beyond mere formality or process, as it is mandated by the Constitution. Articles 14, 19, 21, 22 and 311[27] form the bedrock of the natural justice principle.

Arbitrariness, which is equivalent to discrimination, arises from a violation of the said principle. When discrimination arises from state action, it violates Article 14 of the Constitution. The legal situation concerning the legislative process needs to be studied. It is important to determine which actions constitute the "legislative process" and which fall under "delegated legislation" before discussing the applicability of natural justice principles to any particular agency.

Defining the legislative process is crucial to determine whether natural justice principles apply. In constitutional law, the "legislative process" refers to the intentional process of creating laws by individuals or groups acknowledged by a legal system as having the authority to establish law. Both the procedure and the final output of the enacting body are referred to as legislation, which is equivalent to a "statute."

Legislation created by the law-making body is known as "supreme legislation," while

[27] 'Judicial Review of Administrative Action', (third edition), page 163.

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legislation created by other authorities with delegated power is called "delegated" or "subordinate" legislation. It is necessary to determine if the principle of natural justice applies to "supreme legislation" before considering whether it applies to "delegated legislation" or "subordinate legislation."

In the case of M.R. F. Ltd. v. Inspector, Kerala Government, the Supreme Court of India held that the principle of natural justice is not applicable to legislative action. This means that individuals affected by a law enacted by the legislature under Article 245 of the Constitution cannot argue that they were not given a reasonable opportunity to be heard before the enactment of the law. While the principle of natural justice may be applicable in certain instances to the creation of subordinate legislation, it cannot be applied to the drafting of laws by either the Parliament or the State Legislature, as established by the aforementioned case (AIR 1999 SC 188 286).This is because the primary legislation itself usually stipulates that public notice must be given and objections must be sought before the subordinate legislation is created, such as in the case of municipal bye-laws.

The H.S.S.K. Niyami v. Union of India[28] case involved writ petitions that were filed by the petitioners in the High Court of Karnataka under Article 226 of the Constitution, challenging the constitutionality of Section 3(3C) of the Essential Commodities Act, 1955, and the Notification dated March 24, 1966. The petitioners sought a writ of mandamus that would require the respondents to include their factory in Zone No.2 and to fix the price of sugar at Rs.161 per quintal. The High Court denied the writ petitions, and the petitioners appealed to the Supreme Court of India under Article 136 of the Constitution. They argued that prior to the impugned notice, their factories were considered part of the entire state of Mysore (now Karnataka), and including them in Zone No.1 caused them significant losses. The petitioners contended that factors such as sugarcane pricing, taxes, tariffs, sugar recovery percentage, labor costs, cost of production, and fair return on produce were identical or nearly identical across the state.

The contention that the appellants should have been given notice and a hearing before being placed in Zone No.1, as it resulted in uneconomical clubbing with factories in other states and constant losses, was presented in both the High Court and the Apex Court of India. However, the Apex Court held that individual notice and hearing are not necessary before placing sugar factories in a particular zone for fixing sugar prices. The principles of natural justice are not applicable to legislative actions, and the legislature has been granted significant discretion in

[28] 1990 AIR 2128, 1990 SCR (3) 862

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making policy decisions concerning the sugar industry through statutory enactments and executive orders. The government is empowered to determine what is best for the sugar industry, bearing in mind the primary objective of ensuring the equitable supply and distribution of essential commodities at reasonable prices for the benefit of the general public. Therefore, the price fixing mechanism chosen by the government, which includes zoning as an essential component, is a policy choice made by the government in the execution of its legislative authority, and these issues are not subject to judicial scrutiny. To achieve the best pricing and location for manufacturers based on economic and agro-climatic factors, it is necessary to have both pricing fixing and zoning.

Natural justice principles and delegated legislation: In general, subordinate legislation does not need to be preceded by the audi alteram rule—the rule requiring hearings from parties who will be impacted by it.

The principle of audi alteram is relevant only to the extent that the relevant legislation requires affected parties to be notified or consulted. According to S.A. De Smith, a professor, in the context of the audi alteram rule, it is important to consider the analytical categorization of a function. Under English law, notice or hearing is generally not required for the making of a subordinate legislative instrument unless the parent Act specifies otherwise. In the case of Bates v. Lord Hailsham of St. Marylebone, Justice Megarry discussed the legislative process under Sec.56 of the Solicitors Act, 1957, where the committee had a different function from administrative or executive functions, as it was a legislative body that made or refused to make a legislative instrument under delegated powers. The resulting order would establish remuneration for solicitors generally, and would need to be interpreted and applied in numerous future cases.

However, the legislative process, whether it is primary or delegated legislation, does not seem to be affected by these considerations. Many people who are significantly affected by delegated legislation are not consulted during the enactment of that legislation, and yet they have no recourse. While informal consultation of representative bodies by the legislative authority is common, few statutes have provided for a general process of publishing draft delegated legislation and considering objections. There is no implied right to be consulted or make objections, or any principle on which the courts may halt the legislative process at the request of those who argue that insufficient time has been given for consultation and consideration.

The Indian Supreme Court held in Saraswati Industrial Syndicate Ltd. v. Union of India that price fixation is more akin to a legislative measure, even if it is based on objective criteria, and

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therefore cannot be challenged on the basis of the principle of natural justice. Similarly, in Prag Ice & Oil Mills v. Union of India, the Court found that price fixing in a control order has a legislative character and does not need to take into account the specific circumstances of a particular case. In Laxmi Khandsari v. State of Uttar Pradesh, the notice issued under clause 8 of the Sugarcane (Control) Order, 1966 was held to be legislative in nature and did not require adherence to the principles of natural justice or a hearing.

(A) Public interest

Section 15 of the Police Act of 1861 outlines the provisions for quartering additional police officers in disturbed or dangerous districts. Subsection (1) permits the State Government to declare any area under its jurisdiction to be in a state of disturbance or danger. Subsection (2) authorizes the Inspector General of Police or another person appointed by the State Government to engage additional police officers to be stationed in the area designated in the proclamation. Subsection (3) states that the cost of the increased police force is to be borne by the residents of the designated area, subject to the provisions of subsection (5). Subsection (4) requires the district magistrate to distribute the cost among the residents who are obligated to pay it, in accordance with their relative means. Subsection (5) grants the State Government the power to exempt any individual, group, or segment of residents from paying the cost. Subsection (6) mandates that every proclamation made under subsection (1) must specify its duration, which may be revoked or extended periodically by the State Government.

EXPLANATION: For the purpose of this section 'inhabitants' shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents direct from Raiyats or occupiers in such area, notwithstanding that they do not actually reside therein." In P.Srinivasa Murthy v State of Andhra Pradesh12 the validity of the provisions of Sec. 15 was questioned on grounds of principle of natural justice. It was held that the provisions of Sec. 15 exclude the application of principle of natural justice and expressly require that the powers 12 1982 Cri.LJ 1271 298 conferred on the State Government and the Magistrate shall be exercised in accordance with the statutory provisions contained therein, and so long as the statutory provisions have been complied with the action taken under Sec. 15 including the appointment under Sec. 15.

(B) Emergency

Emergency is proclaimed when a danger is perceived to the security of the State from either external aggression or internal upheaval. Preserving the very existence of the State Is given

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paramount importance. The Constitution provides three kinds of emergency:

(a) National Emergency - due to war, external aggression and armed rebellion

(b) State Emergency - failure of constitutional machinery in State Art. 356. and

(c)Financial Emergency.

Article 352 of the Indian Constitution allows for a National Emergency to be declared if the President is satisfied that there is a grave threat to the security of India or any part of India due to war, external aggression, or armed rebellion. It is important to note that the term "satisfaction" in this context does not refer to the personal satisfaction of the President, but rather the satisfaction of the Cabinet, as the President can only exercise this power on the advice of the Council of Ministers.

Although some have argued that the question of whether an emergency situation exists is a political question that cannot be debated in the courts, it is possible to challenge the President's satisfaction in a court of law on two grounds: if it was mala fide or based on irrelevant grounds. The Constitution entrusts the examination of the situation in the country to the executive, and while the possibility of misuse of this power cannot be discounted, there are safeguards against its abuse. For instance, the validity of the proclamation of emergency can be subject to judicial review, with the court examining whether the limitations conferred by the Constitution have been observed. If there is no satisfaction at all, or if it can be shown that the satisfaction was mala fide or based on irrelevant grounds, the proclamation of emergency would be invalid.13 AIR 1980 SC 1789 Art.356 provides for proclamation of emergency in the State, which may be issued on the advice of the Governor of the State, or otherwise if he is satisfied that a situation exists where the Government of the State is not capable of functioning in accordance with the Constitution.[29]

The power to dismiss state governments under Article 356 of the Constitution has been subject to misuse by governments to dismiss state governments belonging to political parties other than the one in power at the center. This has happened in the past, as in 1977 when nine state assemblies were dissolved under the pretext that they no longer represented the wishes of the electorate. In State of Rajasthan v. Union of India, eleven states challenged the dissolution of their assemblies and sought fresh mandates. However, the Supreme Court unanimously rejected the petition, holding that the "satisfaction" of the President under Article 356 cannot be questioned, although it did mention that if the satisfaction is mala fide or based on irrelevant

[29] Constitutional Law of India, Dr.JN Pandc, Central Law Agency, 161.

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grounds, the courts will have jurisdiction to examine it. In S.R. Bommai v. Union of India, the Supreme Court gave a far-reaching judgment when it held that the dismissal of the BJP government in Madhya Pradesh, Rajasthan, and Himachal Pradesh was valid on the grounds that the state government acted against an ideal incorporated in the Constitution.

(C) Elections

Electing representatives to various bodies is one of the key concerns of democratic governments. In nations that have adopted adult franchise, the right to election is regarded as an important right. However, in our Constitution, this right is not a fundamental right. This is instead a privilege.

"An election petition for disputing an election is, however, not an action at common law or equity. In the absence of any right provided by the laws, the election shall be deemed to have been conducted in accordance with the provisions of this section.

No right to contest an election may be drawn from basic principles of justice or Natural Justice, unless in accordance with the method prescribed by law or statutory regulation. In India, several phases of the

Outside of these provisions, the Court or the Election Tribunal have no jurisdiction to grant relief on general principles;" In Sangram Singh v. Election Tribunal, Bose.J held "That our laws provide that the election process and the remedies for wrongs committed during that process are governed by different provisions of the Representation of the People's Act 1951[30].

Its processes are based on the Principle of natural justice, which state that men shouldn't be convicted without a trial, decisions shouldn't be made behind their backs, and proceedings that have an impact on their life shouldn't be conducted in secret.

(D) Public order

Public Order, does not mean mere maintenance of law and order, it implies public peace, safety and tranquillity. To determine if the Act breaches public order it should disturb the life of the community and not merely disturb an individuals tranquillity. Thus any activity which creates internal disorder would affect Public Order. Intentional utterances to hurt 313 the religious feelings of one class of person amounts to creating disorder in society Ramji Lai Modi V. State of UP33. Hence, any law which is made to restrict the right of free speech is held as valid by the Courts, but a speech which is made in public criticising the Government does not amount to disturbance the Public Order34 .

[30] Durga Das Basu: Shorter Constitution of India, 12"* edition.

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(E) Other exceptions

Apart from the above, there are some other exceptions to the rule that no man may be a judge in his own cause, namely,

(a) Necessity,

(b) Consent inter partes and

(c) Creations of status

1. The doctrine of necessity is a legal principle used when no other suitable tribunal is available or when a quorum cannot be formed without a particular person. The principle is based on the idea that justice should not be denied, and it has been applied in various cases throughout history. For instance, in a case from 1429, an action against all the judges in the Court of Common Pleas had to be heard in that particular court, and no objection was made. Similarly, in the case of Re The Constitutional Questions Act (1936), the Saskatchewan Court of Appeal considered whether judges' salaries were taxable, and each judge had a direct financial interest. As a result, none of the Court's members were allowed to participate in the reference because they all had a financial stake in the outcome. However, this rule does not apply when the Court acts ex nihilo, for instance, when a lawsuit is brought against all of the Court's judges in a case in which the Court has exclusive jurisdiction.

2. One exception to the rule against a judge hearing a case in which they have a personal interest is if all parties involved have given their consent or waived the objection, or if there is a binding agreement in place, such as appointing an arbitrator in a building contract or joining a society with internal dispute resolution mechanisms. In such cases, there can be no complaint about the judge acting in their own interest, but only if they fail to perform their judicial functions impartially. Parties may also waive objections to a known interest or bias.

3. The third exception to the rule against bias is when Parliament intentionally gives the responsibility of judging matters that affect a financial interest to a body with that same interest, but expects them to act impartially nonetheless. This exception acknowledges that certain bodies or individuals may have a particular interest or expertise in a matter and may be better equipped to make informed decisions despite their financial interest. However, the expectation is that they will set aside their financial interest and act impartially in making decisions.

VI. EXCLUSION OF THE RIGHT TO ORAL HEARING

In the case of Local Government Board v. Arlidge, the House of Lords established that a defendant does not have the right to an oral hearing in relation to Section 17 of the Housing,

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Town Planning Acts of 1909, which allowed local authorities to make a closing order on unfit dwellings. An owner could appeal to the Local Government Board under s.39, but the Board could dismiss appeals without holding a public local inquiry. This ruling was subsequently applied in R.V. Central Tribunal, Ex parte Parton, where a conscientious objector appealed to the Central Tribunal without the right to an oral hearing. The tribunal was empowered to regulate its own procedure and made a regulation that they would not hear appellants orally in all cases.

Regarding the application of natural justice, if a law does not explicitly exclude it, then it is presumed to apply. However, in exceptional cases where urgent action is required or where public safety, health, or morality is at risk, the principle of natural justice may be excluded. This exclusion may also apply when dealing with a large number of individuals. For example, in Bihar School Education Board v. Subhash Chandra, where mass copying occurred during the Secondary School Examination, the Board cancelled the exam and allowed the students to take a supplementary exam. The Supreme Court of India held that since a vast majority of the examinees had used unfair means, it was unnecessary for the Board to hold a detailed inquiry into each individual case to determine who had cheated.

It is also important to note that the principle of natural justice may not apply to matters of legislation, such as the exercise of the Eminent Domain, Taxation Power, or Police Power. This rule applies not only to legislative bodies but also to local government bodies and any other legislative bodies to which the legislatures may have delegated the legislative power. This rule may also apply to administrative tribunals when they are legislating rather than exercising their quasi-judicial functions. However, in cases where an officer is exercising their police power or abating a nuisance, the aggrieved person may seek redress by filing a complaint against the officer. In Chowdhary v. H. S. Chowdhary, the Supreme Court of India overturned a decision by the High Court of Delhi that had granted a writ petition challenging the legality of the First Information Report and the Letter Rogatory issued by the Special Court in the Bofors Case. The Supreme Court of India stated that the principle of "Audi Alteram Partem" did not apply to this case, as the requirement of giving prior notice and an opportunity of hearing to an accused before taking any action in a criminal case would hinder the proceedings, delay prompt action which is required by law, obstruct justice and render the provisions of law related to investigation meaningless, illogical and self-destructive.

VII. CRITICAL APPRAISAL

The Natural Law serves as the theoretical basis for the natural justice concepts, which are

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themselves developed from it. The idea of aequitas was initially introduced by the ancient Greeks in their legal system, and it was further refined by mediaeval thinkers like Grotius, Aquinas, and Augustine. Even the Contractarians adopted the notion of Natural Law as their own and advanced the Natural Rights philosophy. The English Law was created by judges of common law courts who upheld the moral standards of honest faith, sound judgement, and moral rectitude. The judges of equity courts expanded upon this law and added additional rights and remedies.

On the continent, it was generally accepted that an uncodified law was not seen to be the best source of law, although the rigidity of the system was later eased by acknowledging the rule of natural law and natural equity. The necessity of using the power of doing equity was acknowledged by virtually every court in Europe. The explanation for the justification of natural justice principles is that a situation may not be entirely covered by the Statutes. In the absence of any explicit legal provisions, the court's role is to resolve disputes involving determining rights and interests by using broad legal principles.

This is a jurisprudential strategy that has been used to determine the legal relationships between governments and between private persons as the law has steadily evolved in every country. According to the courts, it is not permissible for public authorities, especially administrative agencies, to exercise arbitrary control over peoples' interests. These authorities must behave rationally and without bias in all of their decisions. This is the fundamental foundation of the rule of law and its most basic need. The statutory provision that authorises the use of these principles to matters before the court or the legal tradition that upholds these principles make the principle of natural justice relevant in municipal governments.

The judiciary has adopted the position that the promotion of fairness in the adjudication of rights is among the objectives of natural justice principles. However, if the court concludes that the application of these principles would lead to greater injustice than justice for the litigant, it will decline to apply them. This is because it is deemed unreasonable and frustrating to extend the idea of justice to absurd levels. The court's decisions, which hold that natural justice principles are not universally applicable to all types of inquiries and domestic tribunals, further diminish the relevance of these principles.

The determination of whether natural justice standards apply in a specific case should be based on the particular circumstances surrounding the inquiry, such as the nature of the proceedings, the regulations that govern the tribunal, and the subject matter at hand.

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The Supreme Court of India, in Union of India v. P.K. Roy[31], established that the application of natural justice cannot be confined to a strict pattern and must be decided based on various factors such as the type of authority conferred upon the administrative body, the nature of the affected right, the objective and purpose of the legislation, and other relevant circumstances specific to the case. Although there was no legal obligation for the use of natural justice in dispute resolution, the court has, in recent years, shown a tendency to disregard fundamental principles.

In Union of India v. J.N. Sinha, the court affirmed that natural justice principles serve to complement, rather than override, the law. If a statute explicitly bars the use of natural justice principles, the court cannot disregard the legislative purpose or statutory rights by introducing such principles into the legal provision. In such cases, the court must follow the plain language and intent of the statute while interpreting and applying the law. Unfortunately, the circumstances where natural justice principles are applicable are decreasing while the circumstances where they must be excluded are increasing. This trend is concerning, and the authorities must consider the issue from all angles and take an objective approach to determine how to balance the long-standing history of the courts and prevent the further displacement of natural justice principles. Both statutes and the principles of natural justice serve the same purpose of promoting justice, so they should not be viewed as opposing conceptions of justice.

The initial element of impartiality implies that a judge must refrain from presiding over a case in which they exhibit bias. The term 'bias' refers to any factor that could potentially influence a person's decision-making process, other than the evidence

presented in the case.

Bias is of three kinds.

(i) Pecuniary Bias.

(ii) Personal bias, and

(iii) Bias as to subject matter.

A participation or interest in any business or transaction constitutes a pecuniary bias. Bias as to subject matter occurs when a person has an interest in the issue, such as departmental bias, official prejudice, policy bias, etc. Personal bias takes the shape of antagonism or favouritism.

The organisation of law enforcement agencies and the process of interpreting the law both adhere to the ““Nemo Judex in Causa Sua”” premise. Since then, a number of Statutes have included the second concept, known as “Audi Alteram Partem”. The provisions of the Indian

[31] 1968 AIR 850, 1968 SCR (2) 186

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Constitution of 1950 and the Code of Criminal Procedure, both of which offer different protections to people in situations of criminal justice, may be mentioned in this context.

i. Article 21 of the Constitution "ensures that no person can be deprived of their life or personal liberty except through the process established by law".

ii. Article 22(1) of the Constitution provides "protection to arrested individuals by ensuring that they are informed of the reasons for their arrest and have the right to consult with and be represented by a legal practitioner of their choice."

iii. Article 22(5) provides "protection to individuals who are detained under preventive detention by requiring the authority to communicate the grounds for the order and provide them with an opportunity to make a representation against it."

iv. Article 311(1) "prohibits the dismissal or removal of civil servants by an authority subordinate to the one who appointed them."

v. Article 311(2) "requires a fair inquiry to be conducted before a civil servant can be dismissed, removed, or reduced in rank."

The principle of "Audi Alteram Partem", which means "hear the other side," is incorporated into the Code of Criminal Procedure, 1973 through the following provisions:

i. Section 227 requires "the judge to discharge the accused if there is insufficient evidence after considering the record, documents, and submissions of both the accused and the prosecution."

ii. Section 228 allows "the judge to frame charges against the accused if there is sufficient evidence and transfer the case to the Chief Judicial Magistrate for trial, or, in the case of an offense exclusively triable by the court, frame charges against the accused in writing and ask them to plead guilty or stand trial."

iii. Section 239 requires "the magistrate to discharge the accused if the charge is groundless after considering the police report, examining the accused, and giving the prosecution and the accused an opportunity to be heard."

iv. Section 235 requires "the judge to hear arguments and give a judgment in the case, including a fair hearing on the question of sentence if the accused is convicted."

VIII. CONCLUSION AND SUGGESTIONS

(A) Conclusion

The principles of natural justice are complementary to, not substitutes for, the laws of the

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country. Natural justice principles are generally held to apply to all judicial, administrative, and quasi-judicial proceedings that affect the rights of individuals, unless the law explicitly waives this requirement. The primary objective of natural justice is to protect individuals from capricious practices of judicial, administrative, or quasi-judicial bodies that can affect their rights. These standards aim to prohibit such entities from acting in a manner that is unfair.

The principles of natural justice and the rule of law share the common objective of ensuring a substantial degree of fairness and equality in the administration of justice. They do not allow judicial authorities to ignore the rights of individuals while rendering orders or judgments. These principles are influenced by the provisions of Article 14 of the Constitution, and their implementation is reinforced by the use of Articles 32 and 226.

This principle has been established by the judiciary to safeguard public rights against arbitrary administrative decisions. It is important to note that any decision or order that violates this principle will be considered unlawful and invalid. Therefore, adherence to these standards is necessary for any administrative decision to be considered legitimate. The role of administrative and judicial power is expanding rapidly in a developing country like India to meet the civic and legal obligations of the population. The Indian Constitution's Articles 14 “Equality before the law”, 21 “Protection of life and personal liberty”, 22 “Protection against arrest and detention in certain cases”, and 311 “Dismissal, removal, or reduction in rank of civil employees” all embody the principle of natural justice. Any violation of these principles would render the decision either void or voidable.

The Doctrine of Natural Justice has been embraced by the judiciary to safeguard fundamental rights of people and ensure fairness and justice by administrative authorities. Throughout the process, natural justice principles and regulations are employed to prevent arbitrary decisions and guarantee fairness, rationality, equity, and equality. The adaptability of natural justice principles allows them to respond to situations in which an individual's rights have been violated. If a judicial authority violates the ““Nemo Judex in Causa Sua”” principle, any court can challenge the order. Similarly, if the ““Audi Alteram Partem”” principle is violated, the order will be null and void from the beginning. These principles provide a comprehensive framework for maintaining just and fair administrative decision-making. Therefore, it is important for adjudicating authorities to have a thorough understanding of the principles of natural justice, including ““Nemo Judex in Causa Sua”” and ““Audi Alteram Partem”,” before making any judgments.

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(B) Suggestions

The significance of the principles of natural justice is further undermined by the pronouncements emanating from the courts, wherein it has been opined that these principles do not possess a universal applicability to all types of inquiries and domestic tribunals. The requisites of natural justice ought to be contingent upon the specific circumstances of each individual case, encompassing the nature of the inquiry, the governing rules of the tribunal, and the subject matter under consideration. In the case of Union of India v. P. K. Roy, the Supreme Court established that "the scope of the application of natural justice cannot be confined within the confines of a rigid formula. The application of this doctrine hinges upon the nature of the jurisdiction vested in the administrative authority, the impact on the affected rights, the framework and policy of the statute, and other pertinent factors elucidated in the particular case."

Previously, the application of the principles of natural justice was not contingent on any legal prescription for their utilization in the resolution of disputes. Even in present times, these principles do not rely on any statute or statutory provision. However, a recent trend has emerged whereby the court refrains from adhering to the principles of natural justice if the relevant statute does not explicitly stipulate their application to the matter at hand.

In the case of Union of India v. J. N. Sinha, it was established that the principles of natural justice do not replace laws but rather complement them. If a statutory provision explicitly or implicitly excludes the application of natural justice principles, the court is obligated to respect the legislative mandate and statutory rights, refraining from superimposing these principles onto the relevant provision of law.

Regrettably, there has been a reduction in the applicability of the principles of natural justice, while instances where their exclusion is warranted have increased. This alarming trend poses a significant challenge to modern jurisprudence. It is imperative that authorities thoroughly analyze the problem from all perspectives and adopt an impartial approach to finding a solution that accommodates both the longstanding traditions of the courts and the preservation of the principles of natural justice. It is worth noting that the consensus is that both statutes and the principles of natural justice serve to enhance the cause of justice and share a common objective, rather than being conflicting theories of justice.

The court aptly noted that the demarcation between an administrative power and a quasi-judicial power is becoming increasingly blurred. To determine the nature of a power conferred, one must consider various factors, including the nature of the power itself, the individuals entrusted

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with that power, the legal framework governing its bestowal, the ramifications arising from its exercise, and the expected manner of its execution. In our welfare state, the rule of law necessarily regulates and governs the actions of the state apparatus under our constitutional framework.

Inevitably, in a welfare state like ours, the jurisdiction of administrative bodies is expanding rapidly. The concept of the rule of law would lose its validity if the organs of the state were not duty-bound to fulfill their functions in a fair and just manner. The essence of acting judicially lies in the requirement of doing so justly and fairly, avoiding any semblance of arbitrariness or capriciousness. The procedural aspects inherent in the exercise of judicial power are those that facilitate, if not guarantee, a just and equitable decision.

In recent years, there has been a significant transformation in the understanding of quasi-judicial power. What was previously regarded as an administrative power is now recognized as a quasi-judicial power. This shift reflects the evolving nature of administrative processes and the increasing alignment with the principles associated with quasi-judicial decision-making.

The inclusion of Naqishbund as a member of the selection board is regrettable. Although it is generally appropriate for the Chief Conservator of Forests in a State to be part of the selection board, as they possess comprehensive knowledge of their officers, including their strengths and weaknesses, their opinion regarding the suitability of officers for selection to the All India Service carries significant weight. However, in this particular case, it was improper to have Naqishbund included as a member of the selection board, especially considering that he himself was one of the candidates being considered.

The principle of justice dictates that a person should not be a judge in their own cause. Although Naqishbund did not participate in the deliberations when his own name was discussed, the mere fact that he was a member of the selection board must have influenced the decision-making process. Furthermore, it is known that he actively participated in the deliberations when the claims of his rivals, particularly Basu, were considered. He was also involved in preparing the list of selected candidates, which inherently involved decisions affecting his own interests. At every stage of his involvement in the selection board's deliberations, there was a conflict between his personal interests and his duty. Under such circumstances, it is difficult to believe that he could have remained impartial.

The crucial question is not whether Naqishbund was biased, as proving one's state of mind is challenging. Rather, the focus should be on whether there is reasonable grounds to believe that he was likely to be biased. Mere suspicion of bias is insufficient; there must be a reasonable

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likelihood of bias, taking into account human probabilities and ordinary human conduct. It is reasonable to consider that Naqishbund had an interest in excluding his rivals to safeguard his own position from further challenge. Naturally, he would also be concerned with preserving his own position while preparing the list of selected candidates.

The principle of "Nemo Judex in Causa Sua" is duly adhered to in the organization of Law Enforcement Agencies and the interpretation of the law. A notable example of this principle being implemented can be seen in the Water (Prevention & Control of Pollution) Act of 1976, which establishes the Central Pollution Control Board and the State Pollution Control Boards. Section 3 of the Act outlines the qualifications for individuals to become Board Members, as well as the disqualifications that relate to the principle of bias. These disqualifications include:

- Prohibition on being a member of the Board for individuals who directly or indirectly hold any share or interest, individually or through partnership, in a firm or company engaged in the manufacturing, sale, or rental of machinery, equipment, apparatus, or fittings for sewage or trade effluent treatment.

- Ineligibility for individuals who serve as Directors, Secretaries, Managers, or salaried officers or employees of any company or firm that has contracts with the Board, the government forming the Board, a local authority within the state, or a government-owned, controlled, or managed company or corporation involved in sewage schemes or the installation of sewage or trade effluent treatment plants.

Similar provisions can be found in the Air (Prevention & Control of Pollution) Act of 1981, concerning the composition of Control Boards for preventing air pollution, as well as in the Prevention of Food Adulteration Act of 1961, which addresses the establishment of the Central Advisory Board for Food Standards. These provisions ensure that individuals with potential conflicts of interest are disqualified from serving on these boards, thereby upholding the principle of impartiality and avoiding any bias in decision-making processes.

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