

## **PROCEDURAL FAIRNESS IN ADMIN LAW**

Procedural fairness, also known as natural justice, is a fundamental principle in administrative law that requires decision-makers to follow fair procedures when making decisions that affect the rights, interests, or legitimate expectations of individuals or groups.

Procedural fairness requires decision-makers to provide individuals with notice of the decision, an opportunity to be heard, and a decision based on the evidence presented. It also requires decision-makers to be unbiased, free from conflicts of interest, and to give reasons for their decisions.

There are two main components of procedural fairness: the audi alteram partem rule and the rule against bias. The audi alteram partem rule requires decision-makers to provide individuals with an opportunity to be heard before a decision that affects their rights or interests is made. The rule against bias requires decision-makers to be impartial and unbiased when making decisions.

In addition to these core components, procedural fairness also requires decision-makers to provide individuals with reasons for their decisions, to take into account relevant factors and not to take into account irrelevant factors, and to provide individuals with access to relevant information.

Overall, procedural fairness is a crucial aspect of administrative law because it ensures that decision-making is fair, transparent, and accountable. It helps to ensure that the decisions made by public bodies are not only legally valid but also just and fair.

## **CONTEXT AND BACKGROUND**

Procedural fairness in administrative law has its roots in the common law legal tradition, particularly in the English legal system. The principle of procedural fairness evolved over time as a way to ensure that decision-making by public authorities was conducted in a manner that was fair, transparent, and accountable.

In many common law jurisdictions, including the United Kingdom, Australia, Canada, and New Zealand, procedural fairness is a fundamental principle of administrative law. It is often enshrined in legislation or through judicial decisions, and it applies to a wide range of administrative decision-making, including decisions made by government agencies, tribunals, and other bodies.

The principle of procedural fairness is closely linked to the concept of the rule of law, which is a fundamental principle of democratic societies. The rule of law requires that all individuals, including government officials, are subject to the law, and that legal decisions are made in a fair and impartial manner.

Procedural fairness is particularly important in administrative law because many decisions made by public bodies have a significant impact on the lives of individuals and communities. These decisions can include things like granting or denying a permit, approving or rejecting an application for benefits, or deciding on a course of action that affects the public interest.

By requiring decision-makers to follow fair procedures, procedural fairness helps to ensure that these decisions are made in a way that is transparent, accountable, and consistent with the principles of justice and the rule of law.

## **HISTORICAL BACKGROUND**

The principle of procedural fairness has its roots in the development of the common law legal system in England. In medieval times, the monarch was the ultimate source of law, and the courts were primarily responsible for enforcing the king's will. However, over time, the courts began to develop their own legal principles and procedures, independent of the monarch's authority.

One of the key legal principles that emerged during this time was the principle of natural justice. Natural justice required that legal proceedings be conducted in a fair and impartial manner, and that individuals be given an opportunity to be heard before a decision affecting their rights or interests was made.

The principle of natural justice was later refined and expanded upon in the 19th century, as the power of the state and its administrative agencies grew. During this time, administrative law began to emerge as a distinct area of law, focused on the review and control of the decisions made by government agencies and officials.

The principle of procedural fairness became a central concept in administrative law, as courts and legal scholars grappled with how to ensure that the decisions made by administrative agencies were fair, transparent, and accountable. In particular, courts began to require that decision-makers provide individuals with notice of the decision, an opportunity to be heard, and reasons for their decision.

Today, the principle of procedural fairness is a fundamental principle of administrative law in many common law jurisdictions, and it continues to play a critical role in ensuring that the decisions made by public bodies are fair, transparent, and accountable.

## **IMPORTANCE**

The importance of procedural fairness in administrative law lies in its ability to protect the rights and interests of individuals and communities affected by government decision-making. Here are some of the key reasons why procedural fairness is so important:

- **Protecting individual rights:** Procedural fairness ensures that individuals are treated fairly and have a chance to be heard before a decision that affects their rights or interests is made. This helps to ensure that individuals are not unfairly disadvantaged by government decisions, and that their rights are protected.
- **Promoting transparency:** Procedural fairness requires decision-makers to provide reasons for their decisions and to be open and transparent in their decision-making. This helps to promote accountability and public confidence in government decision-making.
- **Preventing arbitrary decision-making:** Procedural fairness helps to prevent arbitrary decision-making by requiring decision-makers to follow established procedures and to take into account all relevant factors. This helps to ensure that decisions are made based on the law and the facts, rather than on personal biases or preferences.
- **Ensuring consistency:** Procedural fairness helps to ensure that decisions are made consistently and that similar cases are treated in a similar way. This helps to promote fairness and equality under the law.
- **Upholding the rule of law:** Procedural fairness is a fundamental aspect of the rule of law, which requires that all individuals, including government officials, are subject to the law and that legal decisions are made in a fair and impartial manner. Upholding the rule of law is critical to maintaining a democratic society.

Overall, procedural fairness is essential to ensuring that government decision-making is fair, transparent, and accountable. It helps to protect individual rights, promote consistency and transparency, prevent arbitrary decision-making, and uphold the rule of law.

## **INDIAN LAWS AND PROCEDURAL FAIRNESS**

Procedural fairness is a fundamental principle of administrative law in India, and it is applied across various Indian laws. Here are some examples of how the principle of procedural fairness is applied in Indian laws:

- **Natural Justice:** The principles of natural justice, which require that decision-makers act fairly and impartially, are a key aspect of procedural fairness in Indian law. The principles of natural justice include the right to be heard, the right to an impartial decision-maker, and the right to reasons for a decision. These principles are applied in a wide range of Indian laws, including criminal law, civil law, and administrative law.

- Administrative tribunals: The Administrative Tribunals Act, 1985, established tribunals to adjudicate disputes arising from decisions made by government agencies. These tribunals are required to follow fair procedures and to provide individuals with an opportunity to be heard before making a decision. This ensures that decisions made by government agencies are subject to review and that individuals have the opportunity to challenge decisions that affect their rights and interests.
- Judicial review: The power of judicial review, which allows the courts to review and overturn decisions made by administrative bodies, is another important aspect of procedural fairness in Indian law. Courts are required to ensure that administrative decisions are made in a fair and transparent manner, and that they comply with the principles of natural justice.
- Right to information: The Right to Information Act, 2005, provides citizens with the right to access information held by public authorities. This helps to promote transparency and accountability in government decision-making and ensures that individuals have access to information that is necessary to protect their rights and interests.
- Public participation: Some laws in India require public participation in decision-making, such as the Environmental Impact Assessment Notification, 2006. This helps to ensure that decisions that affect the public interest are made in a transparent and accountable manner and that individuals have the opportunity to participate in the decision-making process.

Overall, procedural fairness is a fundamental aspect of administrative law in India, and it is applied across a wide range of laws. The principle of procedural fairness is essential to protecting individual rights, promoting transparency and accountability, and upholding the rule of law.