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K. O. OLANIYAN

APPLICATION OF THE DOCTRINE OF NATURAL JUSTICE IN ADMINISTRATIVE TRIBUNAL'S PROCEEDINGS IN NIGERIA

By

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Introduction

The doctrine of Natural Justice (with its twin principle)¹ has fringed eminently in decisions making by courts and tribunal in various proceedings, quasi-judicial and as well as administrative tribunals in Nigeria. The doctrine no doubt, a noble concept has been in existence from time long enough to elude human history or old enough as the existence of man on earth, which is traced far back to the history of Adam and Eve in the Garden of Eden in some religious scriptures,² which connotes that the originator of this doctrine has its real origin from the Supreme Creator God. Thus, the Nigerian context can be traced to the constitution³ as well as case law.⁴ Natural Justice, been the basis for the rule against bias and fair hearing entails to maintain public confidence in the legal system. Thus, the concept which cut across bias, can take the form of actual bias, imputed bias or apparent bias. Actual bias is very difficult to prove in practice while imputed bias, once shown, will result in a decision being void without the need for any investigation into the likelihood or suspicion of bias. Cases from different jurisdictions currently apply two tests for apparent bias: the "reasonable suspicion of bias" test and the "real likelihood of bias" test. One view that has been taken is that the differences between these two tests are largely semantic and that they operate similarly. Thus, fair hearing⁵ on the other hand, may take any form as to such extent that a person will be deprived of his/her constitutionally guaranteed rights.⁶ Hence, the essence and impact of justice and fairness cannot be emphasized in all ramifications. The applicability of natural justice by administrative tribunals is the crux of this research.

Historical Background and Evolution of the Concept of Natural Justice

Tracing the main genesis of natural justice, one will have to go back to the story of Adam and Eve,⁷ where they were told not to eat the fruit from the tree which Adam did eat. But

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1. Statutory M.A., The Doctrine of Natural Justice as an Art of the Rule of Law in Nigeria, *Journal of Nigerian and Comparative Law* Volume 14, 2007, p. 231. Published by the Faculty of Law, University of Malaya, Malaysia.

2. Dumas, A.E. *Clashes and Contrasts in the Principles of Natural Justice in Nigeria* (Oxford: John Publishing Co. 1987) at p.178.

3. Section 22 of the 1993 Constitution and section 36 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), Cap C22 Laws of the Federation of Nigeria, 2004.

4. *Head of the Federal Military Government v. Public Service Commission & Anor*, 12 FMR (Oyo) 120 (1990) 11 SC 78. See also *Garba & Ors v. University of Maiduguri* (1990) 1 NIGLR 553.

5. There are at least two fundamental purposes behind the right to fair hearing: the first is the substantive and the second is procedural. The functional purpose is that hearing from the people affected by a decision is likely to produce better decisions, whereas the procedural purpose is that even when it will not have an impact on the decision, an affected person nevertheless has an interest and independent right to be heard.

6. Section 34 of the 1999 Constitution (as amended).

7. See Qur'an 7:22-25.