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Lesson 1
The Principles of Natural Justice
(自然公正原则)

Key Sentences(重点句子)

1. I think that the person accused should know the nature of the accusation made.
我认为被告者应该获悉对他的控告的性质。
2. He should be given an opportunity to state his case.
他应该有陈述意见的机会。
3. The tribunal should act in good faith.
裁判机关必须公正。
4. Bias has been described as a departure from that standard of even-handed justice.
偏见被认为是偏离了公正执法的准则。
5. Objection can not be taken to everything which might raise a suspicion in somebody's mind.
但不是每一件使人怀疑的事都要予以反对。
6. Waiver or acquiescence presupposes that the person to be bound is fully cognizant of his rights.
放弃或者默许的权利应当是从当事人已充分认识他的权利为前提。
7. The judge must not hear the evidence or the representations from one side behind the back of the other.
法官不能背着一方当事人听取另一方当事人的证词或陈述。
8. A party must be given fair notice of the case made against him.

当事人一方应当被告知他被指控的理由。

9. He must know what evidence has been given and what statements have been made affecting him.

他应当有权知晓裁判机关得到了哪些证据, 以及哪些涉及他的控告内容。

10. The rules of natural justice are not rigid.

自然公正原则不是僵化的东西。

11. No words which are of universal application to every kind of inquiry and every kind of domestic tribunal.

没有哪一种解释可以普遍适用于每一种案件和每一类管辖法院。

12. This principle was very closely and carefully examined.

这个原则受到了严密而仔细的审查。

13. Natural justice requires that the procedure before any tribunal which is acting judicially shall be fair in all the circumstances.

自然公正要求任何行使司法权力的法庭所适用的程序在任何情况下都是公正的。

14. I would be sorry to see this fundamental general principle degenerate into a series of hard and fast rules.

我很遗憾地看到这一重要的普遍原则已退化成一系列的不容违反的刻板的规则。

15. In the application of the concept of fair play, there must be real flexibility.

公正平等的观念, 必须加以灵活运用。

16. *The audi alteram partem* rule required that the person charged should have the opportunity of being heard in his own defence in a matter in which such right shall be worth what it is meant to be.

“听取双方陈述”的原则要求被指控的人应该有机会在他

值得行使陈述权的情况下充分行使。

17. That tribunal might not continue to hear evidence privately after the oral hearing and before arriving at its decision.

法庭不能在口头听证之后,判决作出之前,继续不公开地听取证词。

18. A chief constable was acquitted of charges of corruption.

一个曾被指控腐化的警察局长被宣告无罪。

19. But the Watch Committee in arriving at their decision considered (inter alia) his own statement in evidence and the observations made by the trial judge.

但公安委员会在作出该决定时考虑了被告本人的证词,以及初审法官的意见。

20. It is well established the essential requirements of natural justice.

自然公正的本质要求得到了充分确定。

21. The tribunal should make its determination on the documents.

法庭应该在有关文件的基础上作出裁决。

22. It was held that in following the procedure laid down by the Act and not extending it to give the taxpayers the right to see the counterstatement, the tribunal was not acting unfairly or contrary to the rules of natural justice.

判决认为,法庭已遵从了该财政法规定的程序,没有给予纳税人查阅答辩材料权利的做法并未有失公允或违反自然公正原则。

23. Much of the information would be confidential.

大部分信息将会是保密的。

24. The judge or the adjudicator should not therefore take into account information derived from other sources.

法官或裁判者不能考虑采用从其他的渠道得到的证据。

25. There is no obligation on an administrative tribunal to adopt the regular forms of procedure of a court of law.
行政裁判机构没有采用法院所适用的司法程序固定模式的义务。
26. Originally, the principles of natural justice were only used in the narrow context of a court of law.
最初,自然公正原则仅被法院所适用。
27. They must deal with the question without bias.
他们必须无偏见地解决问题。
28. In some cases administrative powers have been characterised as non-judicial.
在一些情况下,行政权力具有非司法性质的特点。
29. Dismissal from an office where there must be something against a man to warrant his dismissal.
将某人撤职就必须有对他不利的证据来证明这种撤职决定的正当性。
30. The rules of natural justice are applicable also in the proceedings of labour tribunals.
自然公正原则还适用于劳资纠纷裁判。
31. There must be displayed that measure of natural justice in the conduct of proceedings.
程序的运作必须体现公平正义的尺度。
32. Taxation was purely administrative.
征税行为是纯粹的行政行为。
33. There was no requirement that he should afford the taxpayer an opportunity to be heard.
他无须给予纳税人陈述的机会。
34. It has also been held that the rules of natural justice must be observed by the tribunal that decides on expulsion from

membership of a trade union or imposes fines or forfeitures.

法院还认为,行政裁判机关在作出开除工会会员资格以及有关罚款和没收财物的决定时,都必须遵循自然公正的原则。

35. It is not necessary to label the proceedings “judicial”, “quasi-judicial”, “administrative” or “investigatory”.

没有必要将有关的程序贴上司法的、准司法的、行政性的或调查性的标签。

36. The characteristic of the proceedings required the inspectors to act fairly.

程序的特点要求视察员公平地行使权力。

Dialogue A

(A: Mr. Baker; B: Mr. Simpson, a judge)

A: How are you, Mr. Simpson?

B: Fine, thanks. Glad to meet you again, and can I help you?

A: I have some questions to ask you. Do you tell me what is the basic requirements of the rules of Natural Justices?

B: I think, first, the person accused should know the nature of the accusation made; secondly, that he should be given an opportunity to state his case; and thirdly, of course, that the tribunal should act in good faith. I don't think that there really is anything more.

A: Bias has been described as a departure from that standard of even-handed justice. However, an appearance or likelihood of bias may sometimes be regarded as sufficient to vitiate the judicial or quasi-judicial adjudication or decision, without the proof of actual bias.

B: Oh, good! A long line of cases shows that it is not merely of some importance but is of fundamental importance that justice

should not only be done, but should manifestly and undoubtedly be seen to be done.

A: I see, and I think it is most important that justice should be seen to be done. But objection cannot be taken to everything which might raise a suspicion in somebody's mind.

B: Very well. What you said is quite correct.

A: Can I ask one more question?

B: Yes, I am very interested in your question.

A: Waiver or acquiescence presupposes that the person to be bound is fully cognizant of his rights. Can you give me some explains?

B: OK! The judge must not hear the evidence or the representations from one side behind the back of the other. Generally speaking, a party must be given fair notice of the case made against him, and he must know what evidence has been given and what statements have been made affecting him, and also he must be given adequate opportunity at the proper time to meet the case against him.

A: Thanks a lot.

B: It's my pleasure.

Dialogue B

A: Excuse me, Mr. Simpson. What is the essential requirements of natural justice?

B: The rules of natural justice are not rigid. There must be real flexibility, no words which are of universal application to every kind of inquiry and every kind of domestic tribunal. Natural justice requires that the procedure before any tribunal which is acting judicially shall be fair in all the circumstances, and this principle is very closely and carefully examined. But I would be

sorry to see this fundamental general principle degenerate into a series of hard and fast rules.

A: Originally, the principles of natural justice were only used in the narrow context of a court of law. They must deal with the question without bias, and make its determination on the documents. But the Watch Committee in arriving at their decision considered his own statement in evidence and the observations made by the trial judge. The judge or the adjudicator should not therefore take into account information derived from other sources. Why?

B: *The audi alteram partem* rule required that the person charged should have the opportunity of being heard in his own defence in a matter in which such right shall be worth what it is meant to be, and the tribunal must not continue to hear evidence privately after the oral hearing and before arriving at its decision.

A: I see. But what are the limitations in the application of the rules?

B: Oh, there is no obligation on an administrative tribunal to adopt the regular forms of procedure of a court of law.

A: In some cases administrative powers have been characterised as non-judicial, it is not necessary to label the proceedings “judicial”, “quasi-judicial”, “administrative” or “investigatory”. The characteristics of the proceedings required the inspectors to act fairly, and in the conduct there must be displayed that measure of natural justice. Mr. Simpson, dismissal from an office, must there be something against a man to warrant his dismissal?

B: Of course. It has been held the rules of natural justice must be

observed by the tribunal that decides on expulsion from membership of a trade union or imposes fines or forfeitures. The rules of natural justice are applicable also in the proceedings of labour tribunals.

A: By the way, taxation is purely administrative, is there no requirement that he shall afford the taxpayer an opportunity to be heard?

B: Yes. It is held that in following the procedure laid down by the Act and not extending it to give the taxpayers the right to see the counterstatement, the tribunal is not acting unfairly or contrary to the rules of natural justice.

Notes 注释

1. The basic requirements of the rules of Natural Justice.
自然公正原则的基本要求。
2. I do not think that there really is anything more.
我想不会有比这三点更重要的了。
3. even-handed justice
公平执法的
4. An appearance or likelihood of bias may sometimes be regarded as sufficient to vitiate the judicial or quasi-judicial adjudication or decision, without the proof of actual bias.
有时候尽管没有偏见的实际证据, 但仅以表面上看来可能存有偏见就足以使一项司法或准司法性的裁决无效。
5. A long line of cases shows that it is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

大量案例表明,公平正义不仅要体现在事实上,而且从表面上看也必须让人觉得是明显的、无可争议的,这一点不只是具有一般的重要意义,而是最为重要的。

6. have the opportunity of doing sth.
有机会做某事
7. the limitations in the application of the rules
自然公正原则的适应限制
8. in some cases
在一些情况下
9. give sb. the right to do sth.
给某人做某事的权利

Words and Expressions

accuse /ə'kju:z/	v. 控告;谴责;犯罪或犯法
opportunity /ɒpə'tju:niti/	n. 良机;机会
tribunal /traɪ'bju:nl/	n. (被授权解决某种纠纷的) 审理团;特别法庭
bias /'baɪəs/	n. 偏见;偏心;偏袒
likelihood /'laɪklihud/	n. 可能;可能性
vitiate /'vɪfiət/	v. 造成(契约、理论、证据) 无效
manifestly /'mænɪfestli/	adv. 显然地;明白无误地;明了地
undoubtedly /ʌn'daʊtɪdli/	adv. 无疑地;肯定地;无可争辩地
suspicion /səs'pɪʃən/	n. 怀疑;涉嫌
applicable /'æplɪkəbl/	adj. 合适的;适当的
waive /weɪv/	v. 不坚持要求;放弃

acquiescence/ˌækwiˈesns/	<i>n.</i> 默认;默许;默从
presuppose/ˌpriːsəˈpəʊs/	<i>v.</i> 预先假定;预料;推测
cognizant/ˈkɒɡnɪzənt/	<i>adj.</i> 察知的;认识到的;有认识能力的
evidence/ˈeɪdɪns/	<i>n.</i> 根据;证据;证词
representation/ˌɪreprɪzənˈteɪʃən/	<i>n.</i> 代表;代理;表现
adequate/ˈædɪkwɪt/	<i>adj.</i> 令人满意的;足够的;充分的;适当的
essential/ɪˈsenʃəl/	<i>adj.</i> 不可缺少的;最重要的; <i>n.</i> 要素;要点
domestic tribunal /dəˈmestɪk/ /traɪˈbjʊnəl/	自主裁决权
audi alteram partem (拉丁) 听取双方意见	
flexibility/ˌfleksəˈbɪləti/	<i>n.</i> 弹性
inquiry/ɪnˈkwaɪəri/	<i>n.</i> 调查;查问
degenerate/diˈdʒenəreɪt/	<i>v.</i> 衰退;退化;蜕化
warrant/ˈwɒrənt/	<i>v.</i> 证明……是正当的
dismissal/dɪsˈmɪsəl/	<i>n.</i> 撤职;调离
leave/liːv/	<i>n.</i> 许可;准许
chief constable/tʃiːf/ /ˈkɒnstəbl/	警察局长
corruption/kəˈrʌpʃən/	腐化
watch committee/wɒtʃ/ /kəˈmɪti/	(英) 公安委员会

Lesson 2 The Law of Torts
(侵权行为法)

Key Sentences (重点句子)

37. A tort is a civil as opposed to a criminal wrong.
侵权是一种与刑事过错相对应的民事过错。
38. A tort is a wrong, but it must be distinguished from a crime.
侵权行为是一种过错行为,但它有别于犯罪。
39. It is possible that the one action may amount to both a tort and a crime.
某些行为有可能既是侵权行为,又是犯罪行为。
40. A person who commits a tort is called a tortfeasor.
实施侵权行为的人被称为侵权行为人。
41. The law of tort is common-law based.
侵权行为法以普通法为基础。
42. The aim of the law of torts is different from the criminal law.
侵权行为的目的是有别于刑法。
43. Negligence is one of the better known torts.
过失是主要的侵权行为之一。
44. In certain situations the law imposes a duty on a person to act with care towards others.
在某些情况下,法律要求人们在做某种行为时,对其他人负有注意的义务。
45. Negligence as a tort is the breach of a legal duty to take care which results in damage, undesired by the defendant, to the plaintiff.