
THE CONCEPT OF LEGAL PERSONALITIES

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ABSTRACT

This research aims to uncover the aspects of the essential phenomenon within law – the concept of legal personality. While it has always been central to law by allowing subjects to hold rights and duties, its impact spreads over countless branches worldwide. The legal personality defines which subjects are capable of holding property, bearing duties, and litigating. In terms of this publication, we look into the variety of legal personality types between humans, corporations, states, international bodies, and potential future candidates for legal personality – artificial intelligence. Naturally, the evolution of the notion of the legal personality must be analyzed. Starting from Roman law, over medieval philosophy, and until common and civil law doctrines, the concept is evident in each of the traditions. Notably, common law emphasizes the real-life occurrences of the phenomenon, particularly within corporate law – cases of the legal body are viewed by *Salomon v. Salomon & Co Ltd.* Civil law, in turn, is characterized as a systemic, theoretical treatment. Diverse legal personalities are also elucidated. This includes a universal legal capacity of a person, incorporation of corporations, and specific sovereign states, and some international organizations. Moreover, it emerged that a new potential legal entity – artificial intelligence might be considered as a subject of legal personality. Furthermore, significant court cases within several jurisdictions illustrate the point made. The examples of the Indian supreme court case declaring juristic person status to the Hindu deities, and the U.S. Supreme court case in *Citizens United v. Federal Election Commission* demonstrate how legal personality in corporations profits the right of speech. In addition, the relationship between legal personality and the environment or indigenous beliefs, as shown by New Zealand granting the Whanganui River legal personality, is explained. The topic is concluded by mentioning the importance of the legal personality in law, regardless of jurisprudence, because the law tends to transform to meet the needs of society, as well as to respond to technological and environmental advancements. Hence, the paper sums up the significance of the legal personality for governance, justice, and human rights.

INTRODUCTION

Legal personality is one of the most foundational and simultaneously complex concepts in law. Essentially, legal personality is that through which the subjects of law can acquire rights and obligations. It is, therefore, what allows them to sue and be sued, to own, and to contract. The concept of legal personality identifies who can, in theory, be the subject of legal rights and obligations under the law. As such, the concept of legal personality is vast and all-encompassing, affecting the perception of many branches of law. First and foremost, legal personality fundamentally influences theoretical legal science, but, more importantly, it affects various branches of particular law. From an Indian perspective, understanding legal personality and its implications comes with great specificity. Indian law identifies various categories of legal personalities, including the human being, and the juristic person, which may come in many forms such as corporations, trusts, NGOs, and certain non-human legal persons, such as temples and idols. The Indian legal system, which is heavily based on common law and indigenous practices, holds much under the surface and opens numerous opportunities for analysis of how legal personality is determined and conferred and what comes afterward.¹ The Indian Constitution indirectly addresses the issue of legal personality through the various laws that grant rights and impose duties. For example, the right to constitutional remedies under Article 32 is essentially based on the legal personality of the petitioner, who has the right to sue. Additionally, many separate acts, such as the Companies Act of 2013, address how legal personality is attributed and how corporations, as legal persons, come about, exist, and are dissolved. Through the case of *Shiv Kanwar vs. The State of Rajasthan*², it can be seen how the issues of legal personality may be taken to the judiciary, which, in this case, actively extended the boundaries of the concept of legal personality. The concept of legal personality is not merely theoretical – it is a practical consideration that bears upon governance, development, justice, and ecology. Legal personality underlies how resources are allocated, rights are protected, and duties are imposed. Legal personality raises important issues regarding which rights can be extended to corporations or artificial intelligence.

HISTORICAL EVOLUTION AND BACKGROUND

In general, the concept of legal personality has a long history of development, evolving under

¹ Avtar Singh, *Company Law* (Eastern Book Company 2019).

² AIR 1995 Raj 177

the influence of philosophy, society, and various legal systems. The first roots of the legal personality concept can be observed in ancient Roman law. The Romans's concept of “persona”, which initially meant a mask worn by actors and, by extension, a person’s role in society, began to acquire legal significance. Indeed, the Roman legal system recognized that certain entities were vested with rights and duties, primarily individuals and various colleges, setting the stage for further legal developments. Philosophically, the legal personality concept has been discussed as part of a broader consideration of the nature of a person and his identity. Medieval scholars, such as St. Thomas Aquinas, were among the first to contemplate the meaning of legal personality.³ From a philosophical perspective, the notion of a person who deserves particular rights, responsibilities, and protections was further elaborated and has informed contemporary legal theories on rights and responsibilities. The most important legal systems for the development and application of the legal personality concept are common and civil law traditions. Common law, based on English law, has been more dynamic in this regard, particularly seen in corporate law. For instance, the hallmark case of *Salomon v. Salomon & Co Ltd*⁴ which established that the corporation has a separate personality from its members’ epitomizes general practice in the common law. Indeed, in the common law system, the legal personality has been seen as a matter of what works in practice, and the consequences of recognition are paramount. On the other hand, civil law, derived from Roman tradition and recorded in codes, is more systematic and theoretical. Hence, civil law systems feature lengthy codes that explicitly define and organize legal personality in various contexts.⁵ Therefore, both legal systems have contributed to different understandings of legal personality and how it should apply in practice. Such understandings vary in different contexts, from corporate to environmental law. For instance, while corporate law closely follows the common law tradition, environmental law has expanded this notion in some countries to natural entities such as forests, reflecting growing awareness of environmental problems and indigenous legal heritage.

TYPES OF LEGAL PERSONALITIES

Legal personality is a key legal term that designates who or what can claim to be a subject of a

³ Bimal N Patel, *Diplomatic and Consular Protection in International Law: A Study of Indian Practice* (Brill Nijhoff 2019).

⁴ [1897] AC 22

⁵ Upendra Baxi, *The Future of Human Rights* (Oxford University Press 2008).

legal right and duty. In various entities, that definition can vary, but the most common ones are human beings, corporations, states, international organizations, and increasingly, artificial intelligence. Human beings have a universal definition as legal persons – a human is considered to have the inherent legal capacity to enforce rights from birth until death. As a result, every human being in a legal sense is a legal subject. Such a criterion entitles a person to exercise fundamental human rights and perform duties. It is relevant in both national legislation and law systems and international law. As a result, a human is entitled to civil liberties such as the right to life, political rights such as freedom of speech, and the right to trial as well as liberties to perform rights and duties such as taxes and obeying laws. The constitutional rights and obligations vary depending on the jurisdiction, but the general principle of guaranteed legal capacity is unchanged. The universality of the legal personality definition in human beings guarantees that each individual has the right to claim legal protection from law courts.⁶

Personal legal personality is granted to corporations by the process of incorporation under the specific laws of the jurisdiction, often called the Companies Act in various countries. Personal legal personality allows corporations to act as individuals within the economic sphere, signing contracts, owning property, and capable of being sued. Thus, the creation of a corporation as a separate legal person significantly benefits the stakeholders by limiting their liability to the amount of their investment. As a result, if the corporation is subjected to a lawsuit or suffers from going bankrupt, the personal assets of shareholders are protected. However, this construct also implies specific responsibilities that corporations have, including compliance with various regulations, financial reporting, and transparency, as well as the obligation to report to the shareholders. The legal separation of corporations and shareholders is often called the corporate veil, though it might be pierced when the corporation is a sham for fraudulent and criminal activities. Similarly to individuals and corporations, states and international organizations are also vested with personal legal personality. However, sovereign and international personalities differ significantly from corporate and individual cases. States possess rights and obligations under international law, including the right to sign treaties, responsibilities to protect human rights, and the duty of non-harm against other states. International organizations are established through international agreements and possess the rights of personality as much as necessary to fulfill their roles. For example, the UN has the right to sign agreements with states and other

⁶ Surya Deva, *Regulating Corporate Human Rights Violations: Humanizing Business* (Routledge 2012).

entities, be sued, and own property to facilitate international cooperation and law.⁷

New considerations of legal personality that are currently being developed more frequently involve artificial intelligence. The ongoing evolution of AI technology prompts the question of whether highly autonomous AI should be granted the status of persons in legal terms. In other words, developing true artificial intelligence is likely to lead to autonomy and actions separate from the will of the system's creators. Although key philosophical issues of legal personality revolve around accountability, in a legal sense, this is relevant only in terms of the legally recognized entities. Consequently, certain scholars suggest the best possible way of solving this conundrum is providing for the so-called legal "almost-personality" for AI. In other words, if legal personality can be defined as the capability of initiating actions by and against an entity, then the latter can be legally protected by legally owning assets, having liabilities, and possibly even paying taxes. Nevertheless, implementing this approach poses numerous philosophical, moral, and procedural challenges, including whether AI can be reasonably compared to a sentient being beyond its creators and how this entity's rights and responsibilities can be effectively enforced.

JUDICIAL PERSPECTIVE

Legal personality represents an essential principle of law that defines the entities that can own property and property, incur debts, litigation, and be litigants. Throughout history, this principle was explored and defined by several prominent court cases around the world, as it touches upon the domain of corporate operations and individual rights and protection or environmental law due to the influence of the entities involved. *Salomon v. Salomon & Co Ltd* is a landmark court case in the United Kingdom that determined the principle of corporate personality. The case concerned Aaron Salomon, who operated his boot-making business, which he transformed into *Salomon & Co Ltd*, a limited company. Then, he transferred the trade to the company in exchange for shares and debentures; later, the company went into liquidation. Being a company's principal creditor, the liquidator suggested that the company was Salomon's agent as the corporation was established for tax evasion and thus must be disregarded; therefore, Salomon should have been responsible for the debts. The House of Lords ruled that Salomon was separate from the *Salomon & Co Ltd* corpus, which set the corporate veil, recognizing a corporation as a legal individual with separate rights and liabilities. The corporate veil principle

⁷ Poonam Pradhan Saxena, *Property Law* (LexisNexis 2013).

is crucial in corporate law as it secures the shareholders' interests and facilitates entrepreneurship. *Shiv Kanwar v. State of Rajasthan* case in India determined the legal personality of the Hindu gods and goddesses. A temple appealed the right of management in court, pushing the Supreme Court to identify the legal status of Hindu deities. The court confirmed that a Hindu deity, represented through an idol, is a juristic party, an entity that can hold property and be a party to the litigation. The recognition of deities as juristic bodies is crucial in India, which legalized the integration of the religious and legal aspects of life.⁸

The U.S. Supreme Court decision in *Citizens United v. Federal Election Commission*⁹ provided for a dramatic extension of corporate rights within the American legal system. The specific decision presided upon whether the government had equal rights to restrict corporations from using their funds for political advertisement. The Court declared that such limitations were in violation of the First Amendment's free speech clause and that corporations, similar to individuals, possessed the right to political speech. The implications of this case for American political campaigns are immense: corporations have been allowed to invest significantly more money in the elections, which is considered to be one of the biggest threats to the current regulation of American democracy. The implications of *Citizens United v. Federal Election* for the national regulatory system are still being debated openly. In *Southern Pacific Co. v. Santa Clara County*¹⁰, the U.S. Supreme Court granted the corporation's personhood rights under the Fourteenth Amendment, which was originally focused on protecting the civil rights of individuals. The specific case involved the tax assessments controversy with the Southern Pacific Railroad as a party attacking the county. The case did not deal with the issue of corporate personhood directly, but the Court's recognition of incorporation as a person and the Fourteenth Amendment's application as a whole laid the foundation for the future regulatory climate. *Teitiota v. New Zealand*¹¹ reflected the case of the Human Rights Committee of the United Nations, which had to consider the application for the status of a refugee by Mr. Teitiota, who claimed that the rising sea levels resulting from global climate change posed a threat to his life in Kiribati. Although the Committee did not find the legal evidence to overturn New Zealand's decision not to grant him the status of a refugee, it admitted that lack of access to territory resulting from environmental degradation due to climate change might interfere with

⁸ Faizan Mustafa, *Constitutional Law of India* (Eastern Book Company 2017).

⁹ 558 U.S. 310 (2010)

¹⁰ 118 U.S. 394 (1886)

¹¹ Communication No. 2728/2016, UN Doc CCPR/C/127/D/2728/2016 (2020).

fundamental human rights and compel countries to acknowledge the climate refugees. The case is of great importance as it sets up the context for further legal reflections on the scope of individual rights in light of global environmental changes.¹²

In a more recent case of 2017, New Zealand Respected traditional beliefs and granted the Whanganui River the legal status of a person. The New Zealand government signed an agreement with local Māori tribes, who believed that the river was still alive. Under this agreement, it was granted full legal personhood status. The river could *own property, create debts and, also could sue and be sued. It is important because it not only respects indigenous cultures and beliefs in legal terms but also shows how creative the law can be and how it can adapt to changes. These examples show that legal personality is a dynamic and multifaceted concept. These cases show how different countries and their legal systems adapt to the problems of economies or societies and the environment.

COMPARATIVE ANALYSIS

The treatment of legal personality significantly differs across legal systems due to each system's unique cultural, historical, and philosophical backgrounds. Common law and civil law traditions have developed drastically varying ways of acknowledging and applying legal personality, which proved to influence current global legal practices widely. In common law systems, such as the United States and the United Kingdom, the concept of legal personality is traditionally developed through case law. Such systems often focus on the practical applicability of legal personality, especially in the area of corporate law. For example, the decision in the *Salomon v. Salomon & Co Ltd.* case established the doctrine of a corporation's personality and its veil – a clear-cut separation of the corporation from the shareholders. The significance of this legal innovation cannot be overstated as it established limited liability, a cornerstone of modern business law, and enabled massive economic growth. However, it also sparked fierce opposition and debates over extending other rights, in particular free speech, to corporations, as happened with the *Citizens United* case. In contrast, civil law traditions like the French or German systems rely on heavily codified legal frameworks where most principles of legal personality are laid down in extensive legal codes. This approach is less flexible than

¹² V.S. Mani, *International Law and Human Rights* (Eastern Book Company 2006).

that of common law but more predictable.¹³

IMPLICATIONS & CURRENT ISSUES

Legal personality represents a critical factor in determining how rights and duties are allocated and implemented within and across diverse legal systems. The common law systems, exemplified by the United States, actively develop various interpretations with a focus on the dynamic legal personality that can be extended to corporations. In the case of *Citizens United v. Federal Election Commission*, the Supreme Court ruled in favor of allowing corporations to jump-start campaigns during elections, indirectly providing them with first-amendment rights. Namely, the majority of judges had vague findings that the restrictions imposed were against the Constitution because they restricted the speech implied in spending. In comparison, German legal personality is more structured, and distinctions presented by its implementation remain more defined and systematically described. Finally, the current trend towards flexibility in legal settings corroborates the common law developments, as in times of shortened legislative terms, changing patterns, and novel legislation, it is more beneficial to add broader interpretations to the original legal document. Aside from national implementations, legal personality is a critical factor in international law. Specifically, parties like states or international organizations possess a legal personality that allows them to enter both treaties and litigate in courts.¹⁴ Lately, the debates have escalated to address the accountability of companies that possess financial and legal resources with the extension of legal personality further to include state-like elements in their descriptions. This approach complies with the indigenous and ecological legal frameworks, such as New Zealand's recognition of the Whanganui River as a distinct legal entity.

CONCLUSION

In conclusion, the concept of legal personality is deeply embedded in nearly all legal systems around the world. Legal personality, therefore, provides a conceptual framework within which rights and responsibilities are ascribed to entities in a legal context. In this respect, this paper has looked at the concept from various perspectives, including its development through the rest of history, its applicability to different sorts of entities, and notable legal cases that have forged

¹³ M.P Jain, *Indian Constitutional Law* (LexisNexis 2018).

¹⁴ Arun Thiruvengadam, *The Constitution of India: A Contextual Analysis* (Hart Publishing 2017).

a path toward how it is perceived and enforced. For instance, based on the relevant and scholarly considered landmark cases in India from other jurisdictions, it is clear how much activity can qualify as having legal personality, ranging from human beings and corporations to states and non-human entities like rivers and deities. The discussion on comparative analysis indicates how different legal systems, especially common law versus civil law operate in terms of the concept of legal personality and the respective implications for entities in the systems. Common law, as can be seen, is flexible and can be steered by case directives while civil law is based on a code and charters.¹⁵ The international law discussion demonstrates the paradox of legal personality that is relevant and available at the same time, where it is future-looking especially regarding international issues. Therefore, from the above explorations, it is evident that the concept of legal personality is critical to understanding the various ways in which legal issues are shaped today and in the future, such as corporate administration, human rights, international criminal accountability, and the environment. It is also reasonable to say that, given the dynamic nature of these challenges, it is likely that the concept of personality will continue to change and become more relevant in future endeavors.

¹⁵ A Lakshminath and M Sridhar, *Jurisprudence and Legal Theory* (EBC Publishing 2018).