

All Acts, Statutes, Rules, Regulations, Ordances, are for persons {Citizens-Residents-Individuals}, and not for man and woman.

Jurisprudence

Persons – Nature of Personality

A juristic person {Artificial} is things, the mass of assets, a community of human beings or an organization on which one can apply the legal law. Juristic personality is the capability to have legal rights and duties. The nature of legal personality is a prior need for legal capacity and ability of any legal person {Artificial} to amend rights and duties. For the Judicial person {Artificial}, one has to incorporate in accordance with the law. On the other hand for the natural person, one has to acquire legal personhood by birth. Let us discuss the nature of personality in detail. According to Salmond, “A person {Artificial} is any being whom the law regards as capable of rights and bound by legal duties.” There are two kinds of persons, Natural persons, and Legal persons {Artificial}.

Legal persons {Artificial} are juristic, fictitious or artificial persons and a natural person is a human being with a natural personality and as per law, is capable of rights and duties.

A legal person {Artificial} has a real existence but its personality is fictitious, because such a thing does not exist in fact but which is deemed to exist in the eye of law.

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Status of Unborn Child, Minor, Lunatic, Drunk and Dead Person

Who is a person? According to the law, a person {Artificial} is anyone who has certain legal rights and is bound by some legal duties. This person may be real or even imaginary. So then what is the legal status of an unborn child, a minor, a drunk or a lunatic? Let us find out.

Law of Status

Under the eyes of the law, there are two types of legal entities – human and non-human. So a person {Artificial} will be a human legal entity. But a company or corporation, on the other hand, is a judicial (non-human) person {Artificial} or entity. It still has legal rights and duties just like a human entity.

Now the law of status concerns itself with the status of a man in the society. It governs the natural, domestic and the extra

domestic status of such a man in the society as a whole. The extra domestic status covers the relations and interactions of the man apart from those with his family.

Thus the law of status will deal with those persons that do not enjoy the privilege of being legal entities, i.e. have no distinct legal personalities. But yet the society has a duty towards them and their well being. These include an unborn child, a minor, a lunatic or a drunk person and even a dead person.

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Corporate Personality

which Did you know that in the eyes of the law, to be a legal person {Artificial} you do not have to be an actual natural person? That's right. As per law, even non-natural entities can be an artificial legal person and enjoy rights and duties. Let us learn some more about corporate personality in jurisprudence.

Corporate Personality

As per the law, a corporation is an artificial person. It has the ability to enjoy rights, fulfill its duties and hold property in its own name. Hence, the concept of corporate personality is a singular creation of the law. The best example of this is the

corporate personality of a company under the Companies Act, 2013.

Such a corporation under the law has a legal identity of its own. Such a corporation is represented by its members and agents. However, unlike a natural person, these corporations have a perpetual existence.

Such companies and corporations can sue and even be sued upon. Other such examples of institutes with corporate personalities include banks, universities, corporate bodies, colleges, an association of persons {Artificial}, etc.

Corporate Personality



Theories of Corporate Personality

Now, there are many theories that show and reflect the nature and scope of this corporate personality as created by law.

These theories offer us a theoretical perspective on the topic allowing us a better understanding. However, in the real world with practical problems, they are of little use.

No one theory completely captures the essence of corporate personality. So here we will look at a few of the popular ones,

1] Fiction Theory

As per the fiction theory, a corporation exists only as an outcome of fiction and metaphor. So the personality that is attached to these corporations is done purely by legal fiction.

The legal person {Artificial} is created only in the eyes of the law for a specific purpose. The theory was propounded by Savigny and backed by Salmond and Holland.

2] Concession Theory

This is similar to the fiction theory. However, it states that the legal entity has been given a corporate personality or a legal existence by the functions of the State. So as per this theory, only the State can endow legal personalities, not the law.

3] Realist Theory

As per the realist theory, there is really no distinction between a natural person and an artificial person. So a corporate entity is as much a person {Artificial} as a natural person. So the corporation does not owe its existence to the state or the law. It just exists in reality. This is not a very practical theory as it does not apply in the real world.

4] Bracket Theory

This is one of the more famous and feasible theories of

corporate personality. The bracket theory is also known as the symbolist theory which states that a corporation is created only by its members and its agents.

So the people who represent the corporation make up the corporation. The law only puts a bracket around them for convenience purposes. So we consider these members and the corporation as one unit.

In the practical world, however, we find that the personality of the corporation is separate than that of its members and agents

Question on Corporate Personality

Q: Describe some advantages of corporate personality.

Ans: Some advantages are as follows,

Enjoys perpetual existence/succession,
can own property in its own name,
members enjoy limited liability,

helps with the development of trade and industry.

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Persons – Dimensions of Modern Legal Personality

In all perspectives, all human beings are persons {Artificial} and in legal terms, a being who possesses rights and obligations and liabilities is a person {Artificial}. The concept of legal personalities is always an issue of discussion. The rights or legal responsibility of entities such as corporations that cannot be described by a single person {Artificial}. A modern legal personality is an artificial creation by law. Let us discuss the legal theory associated with it.

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Legal Personality of Non Human Beings

Did you know that as per law a company is a legal person {Artificial}? In fact, a company has a personality, enjoys certain rights and has to fulfill duties as well. But how is this possible? It is due to a concept in law known as legal personality. Let us learn more about the legal personality of non-human beings.

Legal Personality

In the eyes of the law, even non-humans can be considered legal persons {Artificial}. This is the unique and fictional creation of the law known as judicial personality or legal personality.

So as per modern law, you do not actually have to be a person to have legal personality. The term 'personality' has a wider scope with respect to the law.

Now, let us consider the legal status and personality of a few non-human beings. We will see the legal status of animals as seen in Indian law, of idols and mosques and finally the legal status of companies and corporations.

Legal Personality

Legal Status of Animals

Law in many cases will grant non-human entities legal personhood. So in ancient times lower animals and beasts were punished by any wrong done by them.

However, with times our thinking and the law both have evolved. In modern law, animals are not considered legal persons {Artificial}. They are objects since they do not enjoy rights or have duties.

In modern law, we hold the master responsible for the acts of his pets and beasts. So he will be liable for any damage done by these animals under his care where he was negligent in their care and control. Also, the harm done to an animal will be considered as harm done to its owner or the society at large.

Also, modern law does recognize the need to protect animals of all kinds. So Indian law has made provisions for the well being and maintenance of animals. So as per the law,

Cruelty towards animals is an offense

A charitable public trust made for the benefit of a class of animals (not an individual animal) is valid and enforceable.

Legal Status of Idol and Mosque

It has been judicially understood that idols are to be considered as judicial persons {Artificial} with a distinct and separate legal personality. So it can hold property in its own name.

As per the historic case of Pramatha Nath Mullick vs Pradymumna Kumar Mullick, the privy council came to an important decision. The idol is a legal person {Artificial} and has the right to have its location duly respected. And a disinterested next friend can represent it, which the court will appoint.

Legal Status of Corporates

As per Indian law, all corporates, companies, an association of persons {Artificial}, trusts, etc have a separate corporate personality. This is distinct from the personalities of their members and agents. This is why they enjoy perpetual succession.

Solved Question on Legal Personality

Q: If an ox runs into a field and destroys some crops can we sue the ox for damage?

Ans: No, we cannot sue the ox for damage. This is because animals are not separate legal entities under the law. So we can sue the owner of the ox for his negligent care in controlling the animal, but not the beast itself.

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