
THE CONCEPT OF LEGAL PERSONALITY BEYOND ITS CONVENTIONAL BARS

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ABSTRACT

Legal personality is a key concept in jurisprudence that defines who or what can hold legal rights and responsibilities. While it has traditionally been limited to humans, this idea has broadened to encompass corporations, idols, and even unborn children. In the twenty-first century, new discussions surrounding Artificial Intelligence (AI) and environmental issues are challenging this traditional view. This paper delves into the changing landscape of legal personhood using a comparative and analytical lens. It investigates whether AI, with its ability to make decisions, and nature, with its inherent ecological worth, deserve legal recognition. The study reviews judicial precedents from India and other countries, alongside philosophical perspectives like natural law and positivism. It concludes that while the idea of AI as a legal person raises questions about accountability and ethics, recognizing nature as a legal entity marks a significant shift towards ecological justice and sustainable development. Ultimately, the concept of legal personality is a flexible tool in law, evolving with the ethical and technological changes in society.

Keywords: Legal personality, Artificial Intelligence, Nature

Introduction

Legal personality is one of the fundamental concepts of jurisprudence. At its core, it addresses a very simple question: who can be a person? While usually answering it, a human being is considered as a person but the jurisprudence extends the definition of person much further. It recognises a person as an entity which law regards as capable of bearing rights and duties. It recognises entities such as corporations, states, idols and even unborn child as bearers of rights and duties

However, with the growth in the ambit of law the monopoly of humans on legal subjectivity has been questioned. And this led to the emergence of the concept of artificial or legal personality in the realm of jurisprudence. It reflects the dynamic characteristic of law as society evolves, law creates new personalities to address new needs.

In the present, 21st century, two new debates dominate the discourse of legal personality in jurisprudence:

1. Should Artificial Intelligence (AI) which demonstrates the feature of decision making, be granted legal personality?
2. Should Nature - Forests, rivers and ecosystems be given rights as legal persons to protect them from knocking down and destruction?

Both debates transcend the limit of the traditional label of legal personhood in jurisprudence and compels us to rethink and examine the accepted list and definition of legal persons.

Meaning and Definition of Legal Personality

The word “person” is derived from the Latin word *persona*, which meant a mask worn by actors in theatres playing different roles. Over time the word was used to denote the role played by man. Thereafter, it began to be used in the sense of living being capable of bearing rights and duties.

Jurists have defined ‘persons’ in different ways.

Salmond defines a ‘person’ as “any being to whom the law regards as capable of bearing rights or duties. Any being that is so capable is a person whether human being or not and

nothing that is not so capable is a person even though he is a man”.¹

Gray defines ‘person’ as “entity to which rights and duties may be attributed”.²

G.W. Paton, defines legal personality is a medium through which some such units are created in whom rights can be vested.³

Thus, legal personality means the capacity for legal rights and duties. It is not confined to human beings but extends wherever the law finds it necessary to recognise.

Kinds of Legal Persons

- **Natural Persons:** A natural person is a human being. Who possesses inherent legal rights and duties by virtue of being human.
- **Juristic Persons:** An entity recognised by the law as a person, even though it is not a human being.

Classical Jurisprudence and Legal Personality

The concept of legal personality has evolved and shows a gradual expansion from an individual-centered to a more and functional approach.

Legal personality of special entities

1. Corporations

A corporation is an artificial person enjoying in law the capacity to have rights and duties and holding property. The juristic personality of corporations is identified only when three conditions are fulfilled. *Firstly*, there must be a group of human beings associated with a specific function. *Secondly*, the presence of organs through which the corporation functions, and *thirdly*, the corporation is attributed will by legal fiction.⁴ For certain purposes, the company has an independent existence from its members.⁵ To explain the concept of separate

¹ Fitzgerald P.J.: Salmond on Jurisprudence (12th Edition p.299)

² Gray, The Nature and Source of Law (2nd edition, p.27)

³ Paton, George Whitecross, A text-book of jurisprudence (The Clarendon press, 1946).

⁴ Dr. N.V. Paranjape, Studies in Jurisprudence and Legal Theory, (Central Law Agency, 9th edition).

⁵ Salomon v. Salomon &Co., (1887).

legal entity of the company Gower cites a unique example - in the General Meeting of a company all the members died due to bomb explosion but it did not affect the existence of the company and it continued functioning as before.⁶

2. Unborn Child

A child in the mother's womb is regarded as a legal person for many purposes. As per legal fiction, a child is treated as already born and ownership may be vested in a child in mother's womb (*en ventre sa mere*)⁷. Pre-natal existence of a child as a legal person is recognised for the purpose of civil actions. The rights conferred on an unborn person is, however, contingent upon his taking birth alive. Significantly, Paton does not recognise unborn child as a legal person because he is without rights.⁸ It is, however, submitted that this view is not tenable as various legal systems in all over the world have conferred the legal personality to unborn child through their judgements.

3. Dead Person

Salmond observes that the personality of a human being commences with his birth and ceases with his death. Therefore, dead men are no longer a person in the eyes of law. He pointed out three things in respect of which concern of a living men extends beyond their deaths, of which law will take notice. The dead man's body, his reputation and his estate.⁹

The dead man's corpse is the property of no one but the law ensures its decent burial or cremation¹⁰. The supreme court in *Ashray Adhikar Abhiyan v. Union of India (2002)* held that even a homeless person is found dead, has a right of a decent burial or cremation as per his religious faith.

4. Animals

Salmond regards animal and beasts merely an object of legal rights and duties, but never the subject of them¹¹. Edwin H. Sutherland in his *Principles of Criminology*, mentioned some

⁶ Gower, *Principles of Modern Company Law* (South Asian Edition, 11th edition, 2021).

⁷ *Elliot v. Lord Joicey* (1935)

⁸ G. W. Paton, *A Text on Jurisprudence*, (The Clarendon Press, pg. -252,1946)

⁹ Fitzgerald, *Salmond on Jurisprudence* (Universal Law Publishing Co. Pvt. Ltd.,12th Edition p.301)

¹⁰ *R. v. Stewart* (1840)

¹¹ Dr.N.V. Paranjape, *Studies in Jurisprudence & Legal Theory* (Central Law Agency, 9th edition 2021)

incidents when beasts were punished. If an ox killed a man or woman, then he was pelted by stone and his flesh was not eaten. In Germany, a cock was charged and accused of boastful announcement. It was brought into the witness box and tried but the counsel failed to protect his feathered client and hence it was killed¹². The modern legal system does not consider animals as legal persons. Therefore, they don't have any rights and duties of their own, rather they consider it the rights and duties of the owner. Owners are held liable for the deed of their pet as they were negligent in keeping it and controlling it.

The law however seeks to protect the animals from exploitation some legal rights are vested in them in certain circumstances:

- Cruelty to animals is criminal offences.
- A trust for the benefit of a particular class of animals, as opposed to one for individual animals, is valid and enforceable as a public and charitable trust.

In the case of **Karnail Singh v. State of Haryana (2019)**, “*All animals have honour and dignity. Every species has an inherent right to live and is required to be protected by law. The privacy and the rights of animals are to be respected and protected from unlawful attacks.*” The judgment relied upon the jurisprudence in **Animal Welfare Board of India v Nagaraj (2014)**, where it was held that Article 21 of the Constitution of India is not just confined to humans, but extends to animals as well.

In the cases where animals are poached for their skin, horn, bones and flesh is strictly banned. But this law still lacks strict enforcement.

5. Idol

Idol has been judicially recognised as a juristic Person and it can hold property. However, its position is that of minor and pujari acts as a guardian to look after the idol. The privy council in the case of **Pramath Nath Mullick v. Pradyumna Kumar Mullick**,¹³ held that an idol is a juristic Person. The Supreme Court in the case of **Devkinandan v. Muralidhar**

¹² Sutherland: Principles of Criminology (pg. -44.)

¹³ (1925)

(1955), ruled that the property of the Hindu temple or an idol vests in the idol itself while possession and management vests in shebait as manager of the estate.

The Legal Personality of Artificial Intelligence (AI)

In the 21st century AI has evolved from simple computation tools to a sophisticated system capable of making decisions. Self-driving cars, medical diagnostic AI and autonomous weapons raise questions of liability and accountability of AI.

Jurisprudential Analysis

- Natural Law- It would reject AI personhood, as AI lacks rational nature that is fundamentally human.
- Positivism- If the legislature decides to recognise AI as a legal person, it becomes one by command of the sovereign, regardless of any objection.

Challenges that prohibit the law from granting legal personhood to AI

A) Dangerous to body and damage to property due to malfunction

B) Risk of system hack and to lose control over the AI

C) Danger of surveillance and violation of privacy

D) The black-box problem, which demonstrates the uncertain nature of the decision-making process of an AI entity.

Comparative Perspective

European Union (EU)

The European Union's Parliament debated over AI in 2017, and passed a Resolution on Civil Law Rules on Robotics creating “electronic personhood” for autonomous robots¹⁴. Though it was later dropped due to ethical concern. The EU's engagement with AI personality reflects its

¹⁴ European Parliament. (2017). Resolution of 16 February 2017.

broader commitment to balancing technological innovation with fundamental rights protection.

United States

The United States perspective of AI's legal personality is fundamentally guided by common law and constitutional principles that focuses on property rights and commercial freedom. The U.S. Constitution's protection of property and contract rights creates a framework where AI is considered as an asset rather than a potential rights-bearer. The U.S. Patent and Trademark Office (USPTO) and American Federal Courts have rejected AI legal personality in the context of intellectual property. The DABUS (Device for the Autonomous Bootstrapping of Unified Sentience) cases, in which the AI was named as inventor on patent. The judiciary refused it by saying that AI can't be identified as an inventor under the current Patent Law. In *Thaler v. Vidal* (2022)¹⁵, the Federal Circuit Court affirmed that the inventors under the Patent Act must be natural persons. The Court emphasized that congressional action is required to count AI as an inventor. This decision reflects the reluctance of Americans to extend legal personality beyond traditional categories.

India

India's perspective of AI governance reflects its priorities of using AI for development while addressing the ethical concern. The NITI Aayog's National Strategy for Artificial Intelligence titled "AIforAll," emphasizes inclusive development but maintains traditional legal frameworks. Indian jurisprudence, influenced by both common law traditions and indigenous legal philosophy, has not seriously entertained AI personhood. The concept of "dharma" (righteous duty) in Indian legal thought is inherently tied to moral agency and consciousness, making AI personhood philosophically problematic. Recent Indian court decisions have addressed AI-related issues through existing legal frameworks. The Delhi High Court's consideration of AI-generated content has focused on human responsibility for AI outputs rather than considering AI as a potential rights holder.¹⁶ The debate over the legal personality of AI will continue as technology advances. The goal is not to make AI more like persons under the law, but to ensure the law remains responsive to technological change while protecting

¹⁵ Thaler v. Vidal, (2022) 43 F.4th 1207.

¹⁶Thevindu Bandara," Defining Legal Personality for AI Systems: A Comparative Legal Study (EU, USA, and Asia)."

human dignity and social welfare.

Environmental Personhood

Environmental Personhood refers to the legal concept which designated some environmental entities as a legal person. Which assigns these entities some rights such as right of protection. Environmental Personhood emerged from the pursuit of the protection of nature.

The United States Professor Christopher D. Stone was the first to advocate for the Environmental Personhood in 1972, in his article “Should trees have standing? Towards legal rights for natural objects”¹⁷. Here standing is related to the maxim of locus standi, environmental entities cannot bring themselves to appear in court. However, this action can be achieved by representing legal guardian.

In the landmark case of *Sierra Club v. Morton*,¹⁸ involved the issue of standing under the Administrative Procedure Act. The Supreme Court rejected the suit by the Sierra Club seeking to prohibit the construction of a ski resort in the Sierra Nevada Mountains because the club failed to prove actions of the defendant caused injury to its members.

Justice William Douglas wrote a dissenting opinion in this case and suggested that environmental objects such as valley, meadow, river and lake should be granted personhood.

Rights of Nature in Different Countries

New Zealand

Te Urewera National Park in 2014 was declared *Te Urewera*, an environmental entity. The government- owned national park was transformed into freehold, inalienable land owned by itself¹⁹.

Following this, Whanganui River was declared to be a legal person in 2017²⁰. This new entity was named Te Awa Tupua.

¹⁷ Christopher D. Stone, “Should trees have standing? Towards legal rights for natural objects” (1972)

¹⁸ (1972)405 U.S. 727

¹⁹ Te Urewera Act,2014 (Act 51 of 2014).

²⁰ Te Awa Tupua (Whanganui River claims Settlement) Act, 2017 (Act 7 of 2017).

India

The Ganges and Yamuna rivers are sacred to Hindu. It is the attraction of pilgrims who bathe and scatter ashes of their dead.²¹

The Uttarakhand High court in the case of State of Uttarakhand v. Mohd. Salim²², declared the Ganga and Yamuna be assigned the status of legal entities. The court here cites the example of New Zealand's Whanganui River.

Ecuador

Ecuador Constitution in 2008, proclaimed the right of nature “to exist, persist, maintain and regenerate its vital cycles”. Every person has the right to advocate on nature’s behalf. The constitution also proclaims to provide incentives to natural and legal persons to protect nature and respect all the elements constituting the ecosystem²³. Granting rights to nature reflects, shift in focus from human utility to protection of the environment. It aligns with global climate change concerns and sustainable development goals.

Critical Analysis

The recognition of AI and Nature as legal persons compels jurisprudence to consider that blur line between reality and legal fiction. A deeper critical analysis shows both potential and risk in this expansion of legal subjectivity.

1. Reconsidering the Boundaries of Legal Personhood

Legal personality has never been a fixed concept- it has always been a construct of convenience. Ships, corporations, idols, and even states have been declared persons in law. Thus, the extension to AI or nature is not unprecedented. But the critical issue lies in determining whether such recognition is a tool of justice or a misuse of fiction.

2. Artificial Intelligence: A Contested Candidate

Utility vs. Morality: AI recognition is justified primarily on grounds of utility (e.g., liability

²¹ Dr. Susan Bliss, “A river is a person” (Geography Bulletin No-2, 2017).

²² Writ petition (PIL) No 126 of 2014.

²³ The Constitution of the Republic of Ecuador, 2008.

allocation), not on moral or natural law grounds. This makes it a weaker claim compared to nature. Risk of Evasion: Corporations might exploit AI personhood to evade accountability. Lack of Autonomy in the Human Sense: AI cannot possess intent, conscience, or dignity. Hence, recognizing it as a full legal person risk eroding the moral foundation of law.

Better Alternative: Instead of granting personhood, AI should be regulated under strict liability frameworks where manufacturers, programmers, or users remain accountable.

3. Nature: A Stronger Claim

Intrinsic Value: Unlike AI, nature possesses intrinsic existence and sustains all life. Recognizing its rights affirms that law can move beyond anthropocentrism towards an eco-centric jurisprudence. Case Law Momentum: Judgments like *Mohd. Salim v. State of Uttarakhand* (India) and the Whanganui River case (New Zealand) demonstrate that courts are willing to push jurisprudence into uncharted territory for ecological survival.

Enforcement Problem: However, most recognition of nature's personhood remains symbolic. Without strong enforcement mechanisms.

Potential for Transformation: If properly enforced, nature's personhood could reshape property law, environmental regulation, and development policies, making it a genuine tool of ecological justice.

Critically, the personhood of AI appears to be more likely to serve technological and corporate agendas than justice. In contrast, the personhood of nature emerges as a jurisprudential necessity, vital for ecological survival and justice in the age of climate change.

Conclusion

In jurisprudence, legal personality is more than just a theoretical idea; it provides insight into how the law changes to reflect shifting social realities. Its scope has broadened from human beings to corporations, idols, unborn children, animals and rivers, from Roman times to contemporary courts. This journey demonstrates that personality in law is a matter of legal necessity rather than biology. The limits of legal personality will keep changing as society deals with new issues like climate change, environmental damage, and technological disruption. The idea demonstrates how innovative law can be in guaranteeing that justice is not limited to

specific people but rather is applied everywhere obligations and rights need to be upheld.

The challenge is not whether law can recognize AI or nature-it clearly can. The challenge is whether such recognition will be substantive and transformative or merely symbolic and exploitative. Jurisprudence must resist the temptation of empty fictions and instead provide Personhood to protect rights and duties of legal persons.

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