

28th October 2025

Prof. Uju Flaugher

Cause Outline

- 1 Legal Personalities
- 2 Judicial Precedent
- 3 Law and Justice

What is Jurisprudence?

This is the science, philosophy of law. There is no exact definition of Jurisprudence. Different jurists define jurisprudence in their own way.

It can be analytical or descriptive.

LEGAL PERSONALITIES.

This is a person who has the rights and duties to perform. A person who can sue and be sued.

Two types of Persons:

→ Natural or → Artificial / Juridical

Under Common Law, Legal Personalities are assigned by law. Eg a woman, children,

Slaves were not legal persons, and were said to derive their personalities from another woman from her husband or slave from the master.

Every person (natural) is a legal personality. This was established <sup>in</sup> ~~at~~ the Beijin Conference.

Legal Person is any subject matter, whether human or not in which the law attributes rights and laws / duties to perform.  
Hence, a legal Person has real existence, but its personality is fictitious.

Personification is essential for all legal personalities, but personification does not create legal personalities. Based on that, Paton W-G and Verhan D.P.A 1972 - observed that Legal Personalities is an artificial creation of law.

A particular device by which law creates units unto which it ascribes certain powers.

In a Historical sense, the human being person is therefore not "ipso facto" a legal person.

unless and until such recognition is accorded  
law. e.g. women, slaves & regarded as char

Legal Personalities may be granted  
other things other than natural persons.  
Company  
a group of persons, clubs, foundation, fund,  
It therefore vests with the law to confer &  
withdraw or deny legal personalities to any  
person or entity.

Legal Persons are real and imaginary  
beings to whom personality is attributed by  
by way of fiction where it does not exist  
facts.

Today, under the law, every natural  
person is a legal personality.

4th November 2025

Prof Ujjwal Bhogya

## Legal Personalities.

### Artificial Persons.

- Corporation Aggregate
- Corporation Sole

- Juridical Persons - Unincorporated persons under artificial persons eg friendly society Partnership; are legal Personality.

- Artificial Persons can be corporations and unincorporated companies.

- There are things under statute that are given legal personalities.

- CORPORATION - These are incorporated Company. Divided into Corporation Aggregate and Corporation Sole

Corporation Aggregate is independent, yet made up of different persons. These are companies that are incorporated under

CAMA, that are independent from the members.

Corporation Sole; The Person as a sole person is independent of the registered office eg The Bishop is different from the office of the Bishop which was registered.

\* The stool / Office of the Stool remains forever while the occupant changes.

### NATURE OF LEGAL PERSONALITY.

A natural person becomes a legal person since he/she is born and it ends once he/she dies; that is, such person has the capacity to sue and be sued, and also has rights and responsibilities.

#### NOTE:

\* Onus of Proving that he/she is a legal person lies on that who says he is a legal person by bringing such Statute that makes him a legal personality.

It is trite law that the entities that have legal personalities in law have the right to sue and be sued. This is stated in Common Law. Thus in the English case of Knight, Celay v Dove, ...

In determining Civil rights and Obligations of parties.

Legal Personality as a concept of law and its applicability goes to the Jurisdiction of the court.

- Judicial Personality is not the same as Juristic Personalities. e.g. Trade Union

\* Juristic Persons mean Legal Persons according to Prof Mys \*

The Court in Pawahini v B.A by Agarwal JSC

## Persons Who Can Sue And

### In Law:

These are juristic persons and have been recognized to include

- 1) Natural Persons
- 2) Corporations
- 3) Companies incorporated under CAMA
- 4) Corporation aggregate
- 5) Corporation Sole

The unincorporated associations that are given legal status by statute are Trade Unions, Partnership, friendly societies or Sole Proprietorships.

See Igne Medical Merchandise v Pfizer Inc & anr (2001) 104 WLR Pt 722.

Corporation Aggregate is defined as a collection of individuals united into one body under a special denomination having perpetual succession under an artificial form and vested by the party of law into the capacity of acting in several respect

- In Partnership, each partner can sue each other or the partnership in their own names.

## PROOF OF JURISIC PERSONALITY.

He who asserts that he is a legal personality has the right to prove by going to the statute that says he is.

## LEGAL PERSONALITY AND ACCESS TO COURT.

11th November 2025

Prof Uju Nwogu

## LEGAL PERSONALITY AND ACCESS TO THE COURT.

Sec 6<6><6> of the CFKN 1999 - This preserves the right of access to the court and the right of citizens to approach the court.

In Registered Trustees P-A-W v Register trustees A.A.C, it was held that generally no court has jurisdiction to hear any matter in which either the plaintiff or defendant is not a legal person. The jurisdiction to entertain a matter is decided by the constitution.

See Anambra State Govt v Nwankwo

- A required pre-notice of 3 months must be given.

### NOTE:

- The objective of the enquiry whether or not a person has legal personality is to determine whether the court has jurisdiction, and not a denial of access and where either of the party has no legal personality.

see Nijoku v. UAC

## LEGAL PERSONALITY AND LOCUS STANDI

Locus Standi - The standing of a person to sue someone who has sufficient interest to sue in a matter.

The Legal personality of a person relates to the legal recognition of a person to sue and be sued, while locus standi relates to the standing of a person to sue after he has been accorded legal recognition.

The issue of legal personality is determined first before locus standi is.

See Banik of Baroda v Iyakibaw

- It was held that while legal personality relates to the very existence of the plaintiff, while locus standi relates to the existence of the right of that plaintiff as a natural or artificial person.

Lack of locus standi and legal personhood by a plaintiff will lead to the matter being struck out.

### ADVANTAGES OF INCORPORATION.

- 1) Ability to acquire, hold and dispose of property as a unit or group
- 2) Perpetual succession
- 3) Ability to sue and be sued in its corporate name without the need of joining the members
- 4) Ability to carry on business with limited liability
- 5) Unified common interest of a large number of people

### \* THEORIES OF CORPORATE LEGAL PERSONALITY

- 1) Fiction Theory
- 2) Realisti Theory
- 3) Symbolist Theory
- 4) Holistic Theory
- 5) Purpose Theory
- 6) Enterprise Entity Theory
- 7) Concession Theory
- 8) Person Theory
- 9) Organism Theory.

Fictional. Proponents of this theory: Salmond and Savigny According to this, juristic persons are treated as if they are persons. This is the most popular among all those theories due to its non-involvement in metaphysical and political matters.

REALIST THEORY: This theory asserts that juristic persons enjoy real existence as a group. These look at things from the real school of thought. To these people or theorists, it must exist in law and also in fact. Exponents of this theory are:

SYMBOLIST THEORY: According to this theory members of a corporation and beneficiaries of their foundation are the only real person. Juristic personality is only seen as a symbol to achieve the goal of a group. The use of a person is used only for natural human beings.

Here it simply means that the members of the group are seen as real persons and not the group itself.

HOLFIELD'S THEORY: Here, Holfield drew a pure distinction between human beings and artificial juristic persons. Juristic persons to him are a creation of arbitrary rules of procedures. According to him, only human beings have the ability to make claims, and have power. To him, a corporate person is a

PURPOSE THEORY: This is based on the word 'Person' is only accorded to human beings. Juristic persons are not persons at all. Juristic relations are only accorded to human beings. Juristic persons are subjectless things/properties.

The theory assumes that other people (natural) may hold duties towards subjectless properties, without the subjectless properties.

having corresponding claims. This means that companies don't have any rights at all whatsoever. No rights and duties.

### • & Juristic / Artificial Person

ENTERPRISE ENTITY THEORY: This theory to an extent is related to the purpose theory. The extent of the liability is determined by the underlying enterprise. However, looking at the nature of corporation as stated by this theory, determines or shows the attitude of the law towards a corporation or company. It can be described as utilitarian theory.

CONFUSION THEORY: The main feature is no juristic person is a legal personality until it is determined by the state. The determination of juristic personality is a question of law under this theory. It purports the general belief on Natural and artificial persons.

## ORGANISM THEORY.

This is closely associated with the realist theory. It states that groups are persons because they are organisms and not the entity itself. However, it is quite preposterous to liken corporation to human beings because they don't have life.

## CRITICISMS OF THEORIES

- 1) They are not so much concerned with finding a permanent solution to the issue of legal personality.
- 2) None is comprehensive in itself.
- 3) Some of them are analytical (Kelsen Theory).
- 4) Lawyers have not limited themselves to any of these theories, they use all in defending on the subject matter.

25th November 2025

Fr. Prof. Ken.

LAW 527.

## Jurisprudence and Legal Theory I

### Course Outline

- What is Jurisprudence
- Branches of Jurisprudence
- Rights Theories
- Theories of Duties
- Concept of ownership & possession.
  - Legal Personalities
- Justice and its relationship with Law.

Prof G.C. Mukobi:

- Law and Justice ✓
- Legal Personalities. \*

Prof Ken

- Definition, Nature and Scope of Jurisprudence
- Law and Morality.
- Interpretation of Statutes.

Fr. Prof. Mawis

- Rights / Theories of Rights / Judicial Relations

I-C

- Concept and Theories of Duty - I.C

Dr. Ujjal Duggi

- Judicial Precedents ✓
- Ownership and Possession - I.C

Dr. Madurka Ewuzie

- Judicial Activism and Passivism.
- Anarchism
- Customary Law.

I.C - Intellectual Concept

15th December 2025.

Fv. Maurice.

## Concept Of Legal Duty.

- o ↗ Generally, concepts are formed from edge the epistemological progression of the consequences of that concept

+1

→ Duty are those that are created and have sanctions gotten from rights.

→ Concepts are also formed by experiences, People's encounter, or even consequences of concept.

→ Intellectual concept formation of concept

< when someone has various conflicting information of something, the human mind leaves out all those information and picks out the common thing they all have. }

Eg. A boy who has tasted several types of beans.

Note: Contact is first done with our senses

⇒ Legal Concepts are tools of legal reasoning.

## Concept of Legal Duty

Prof. Keaton Day is an act of forebearance compelled by the state, and it must be in respect of a right vested in another.

E.g. The Gunnar Du L'Ferme? came to forebearance while no new one came by action. The former stated that when a person who was a gunner wounded is brought he is not expected to be attended to until a police notice is gotten, which may even lead to the death of the person, while the no Act states that the wound should be treated immediately.

John Austin Stated that legal duty is action or forebearance of action commanded by a person who has power to make such command. Here, the command or forebearance is implemented by Sancion & This is the difference between the former definition & The Criminal Code makes use of this definition.

Oliver Kamm He opposed the thinking of John Austin. He stated that duty doesn't

arise as a result of a command, the command is an expression in a style of a command. It is not a command as if there is a commander. He stated that it is actually a psychological expression that comes in the style of a command.

## Difference Between Legal Duty And A Moral Duty.

→ An example is seeing a child about to fall into a ditch and eventually you don't help and such child falls into the ditch and dies. Here, legally you do not have a legal duty to help such child but a moral duty. This is because it is compelled by our religion or conscience but not the state.

This is except it is expressly stated by law in the law.

2) There are some acts that are both legally and morally duties.

- ⇒ There are sanctions that follow moral duty.  
eg conscience < moral sanction >.
  - ⇒ The concern of the law is precisely for legal duty.
- When the an action or forbearance is done in respect of a right of a person, the next thing the law will do is to enforce it.
  - It is because it is commanded by the State that makes it a legal duty and not because there is a sanction for it.

### Nature Of Duty.

A duty may be stated strictly as a prescriptive patterns of the conduct. They express national patterns of conduct to which people may or may not comply with.

More <= Recognition by Law: is the essence of the nature of a duty. ⇒ Canadian

→ The duty represents an official idea of how people ought to behave

• Recognition by law is predicated upon the fact that it is commanded by law

② The genesis of the Ought and Ought not Patterns of conduct are not relevant as long as it has become part of the law by virtue of case laws, judicial precedents, etc.

③ The Recognition by law is by Statutes or by provisions providing for it.

④ Once it is recognized, the court will take it as a pattern of conduct

NOTE: However, change in society can change the nature of duty. Duty changes in the society.

## THEORIES Of Duties.

1) Imperative Theory- This simply means that duties are commanded. Duty comes into being as long as it is commanded by a person of higher authority and imposed on the subject to comply with it. e.g. President to citizens, Doctors to Patients. Higher to lower authority

2) Sanction Theory of Duty: Two sees to base the existence of duty as to the sanction attached to it. Even if a higher authority gives a command and no sanction is given then a duty is not existing. Sanction and Duty goes ~~parallel~~ - fear of punishment

3) Acceptance Theory: This is based mainly by the acceptance by the public. This theory bases existence of duty on the acceptance of such duty by the community whose patterns of behaviour the duty reputes. Here, the people must accept it. Even if it is commanded by a higher authority / law, and it is sanctioned, but the people refuse to accept it, there is no duty. It exists if it is accepted by the people.

duty passes the criteria of existence, then it  
is accepted.

Community accepts it or complies with the criteria  
set out by the same community.

NOTE: Find out the criticisms given to these theories.

The sanction theory criticizes the acceptance  
theory by saying that if people accept the duty,  
while it has not been sanctioned, how can  
there be a duty? If it's not sanctioned, people  
will behave anyhow they want to.

• A response to the criticism of acceptance theory  
by Sanction <a meta-legal> arose and stated  
that judges give judgements without sanctions  
<declarative judgement>. Also in provision of  
statutes, an offence is defined without providing  
sanctions for them.

4) Feeling Theory of Duty: Here, there is a  
relationship between the existence of duty and  
inner feeling of someone to obey that duty.  
This theory is related to psychology.

↳ Basis of the existence of duty. . . . .

Important Notice

⇒ From where does the existence of duty  
arise → Origin of the impulse of duty.  
Where it comes from?

16th December.  
November 2029.

Tr. Maurice

## DUTY. (Feeling Theory).

Emmanuel Kant, - Propounder of the feeling Theory. He brought about categorical imperative, also known as the principle of humanity. To him, humanity must always act in such a way that the reason / principle of their action can be held in such a way that they are the recipient of that action.

The theory of feeling of duty assumes that there is an inner connection between the existence of duty and inner feeling of people which compels them to obey the law.

There is also a criticism for this theory. A person may not have a feeling to perform such duty, that does not mean that such duty does not exist.

Sec 305 of Criminal Code - Privy for committing suicide.

The critics say that who say that the origin of duty is feeling were wrong that there is still some sort of sanction that is

attracted to it.

- ⇒ Intermediate driver is feeling anger
- ⇒ Moderate driver is the inner feeling

<5g : Refusing to obey certain rules

Set by the state eg, traffic rules. Human beings under reason and will.

⇒ Base of obedience  $\Rightarrow$  actual order

Factors that relate to immediate obedience of duty

- 1) Fear basis  $\Rightarrow$  Command / Sanction
- 2) Social basis  $\Rightarrow$  Linked to Acceptance theory
- 3) Psychological basis  $\Rightarrow$  Linked to feeling Theory
- 4) Moral Basis  $\Rightarrow$  Linked to feeling Theory

## ⇒ Fear Basis

John Austin stipulated that we fear punishment linked to the  $\Rightarrow$  Sanction and command many of duty. He stated that presence of Sanction compels obedience. The critics say that it is not a rational basis; many obey because they are law abiding without thinking.

of the consequence of not abiding. There are also critics that state that there are duties that are not based on sanction. Fear has a place in strict liabilities where duties are breached due to accidents.

2) SOCIAL BASIS: Inter-dependent patterns of behaviour in the society. Behaviour patterns are inter-related. This is linked to the Acceptance Theory of Duty.

3) Psychological Basis: Here, obedience to duty is a psychological reaction. Either there is fear or a social basis that prevents such person from doing such action. There is a psychological pressure to obey such duty; or to the ever present pressure to obey the duty.

4) MORAL BASIS: Obedience to duty is traceable to the presence of moral obligations. Every human is on the part of rational persons to obey a particular duty. Here, it is about what you do.

"ought to do" and "ought not to do". This is clear where duties/obligations are not sanctioned and where people decided willingly to obey such duty. And may change when it goes with their moral sensitivity and also rooted in their conscience.

- Ratio Decidendi - Reasons for the decision of the case
- Obiter Dictum - things said by the way. Non-binding judicial comments

16th December 2025

Prof Uju Maogu.

## JUDICIAL PRECEDENT.

### Theories of Judicial Precedent

- 1) Classical Theory
- 2) Hambach Mechanical Theory
- 3) American Realistic Theory
- 4) Goodwin's Theory

1) CLASSICAL THEORY: Here, the principle which the case is a binding authority is to be found in the reasons given by the precedent judge for his decision i.e. what he said. The judge's statement is binding only so far as it is necessary to the decision of the case. An observation on other matters or statements of law are mere *Obiter dicta* and not binding at all.

Mostly followed by English Courts. The main does not help practice to actually identify the ratio. Where the judge gives two rationes for his decision, both are binding. See *Jacob v LCC*.

- ⇒ Also consider the facts of the case, & consider the reason for the decision
- 2) WAMBACH'S MECHANICAL THEORY: According to this theory, to discover the ratio of a case, i.e., the reason for which the judge decides the case, one should carry out the following:
- i) State the reason why the judge based his decision
  - ii) insert one word that reverses the meaning of the proposition. (<NOT / or any form of reversal >)
  - iii) Then ask if the court could have reached the same decision between both parties if it relied on the altered proposition.

If the decision would be same, then the supposed reason cannot be real or the true reason for the decision. (the ratio decided will not stand)

Criticisms: It is difficult to formulate a proposition of law which can be completely reversed. < with just inserting one word >.

- 2) Where there is one ratio, the theory is of no assistance.
- 3) Where the ratio is wide or vague, the theory