

A Corporation can be a Person, but a Person is not a Corporation



OPCA theorists contend that a "natural person" is a unregistered "living man" whereas a birth certificate creates a juristic, artificial or fictitious person, or "corporation".

Legal persons (Latin. *persona juris*) are of TWO kinds:

(1) NATURAL PERSON (an individual person, or human being)

(2) JURIDICAL PERSON, also called juristic, artificial or fictitious persons, (Latin *persona ficta*) who are groups of individuals, (such as corporations) which are treated by law as if they were persons, being capable of certain rights and duties.

YOUR "person" is of the first category, not the second.

You are made up of one individual, not a group of individuals, such as a juridical person, or "corporation".

Juridical persons acquire their legal personhood when they are incorporated in accordance with law, whereas Natural persons do so as soon as they have a separate and independent existence from their mother by birth. (See [R v Hutty \[1953\] VLR 338](#))

The application of a birth certificate DOES NOTHING to change this status to that of a "juridical person". On the contrary, it is actually formal recognition of your status as a "natural person". One could even register their name under the Corporations Act, (Eg. Dick Smith, Harvey Norman) but the individual remains a natural person.

"Men in law and philosophy are natural persons. This might be taken to imply there are persons of another sort. And that is a fact. They are artificial persons or corporations..."

- Deiser, George F. (December 1908). "The Juristic Person." University of Pennsylvania Law Review and American Law Register. Page 131– 142.

Extract from ["Government Contracts: Federal, State and Local"](#); By Nicholas Seddon:

Government Bodies as Legal Entities

The concept of legal entity. There are three types of legal entity: natural persons (that is, individuals), corporations and bodies politic.

Within the category of corporations (apart from foreign corporations) the principal types are corporations incorporated under the *Corporations Act 2001* (Cth), statutory corporations and corporations sole.

"Besides men or "natural persons," law knows persons of another kind. In particular it knows the corporation, and for a multitude of purposes it treats the corporation very much as it treats the man. Like the man, the corporation is (forgive this compound adjective) a right-and-duty-bearing unit."

- H.A.L. Fisher, ed. (1911). "Moral Personality And Legal Personality 1". The Collected Papers of Frederic William Maitland. Cambridge University Press.

[Van den Hoorn v Ellis, \[2010\] QDC 451](#) (at 14 / 40):

"Additionally, there was the puzzling contention that, before the lower court, the appellant was assumed to be a "corperation [sic]" by the fact of the court accepting the alleged "capitalisation of (his) family name" which so led to him being deemed to be a "corporative fiction of limited liability" when he was "a living/breathing soul ... of full liability". Since "driver" in the Transport Operations (Road Use Management) Act 1995 is defined as meaning the "person" driving the vehicle (including the "rider" of a vehicle), the appellant is not a person who falls within the Act because, from the same definitions just referred to, a person "includes" a "corporation" and the appellant is not a "corporation". It is clear from the context of the definition – and reality - that a corporation could never drive or ride a vehicle. Such an interpretation is therefore absurd, and must be rejected. A similar fate follows from any argument that a "person" is only a fictitious legal entity."

[Parker v Parker \[2016\] TASSC 41](#) (at 6):

"If there is jurisdiction to order security for costs in the present case, it can only arise under the general law. The Supreme Court Rules 2000, r 828(1)(g), expressly recognises the power to order security "under any law". There is no statutory law which can be called in aid by the defendant...

...as the plaintiff is not a corporation.

The basic rule is that a natural person cannot be ordered to provide security for costs because of poverty. There are exceptions. One such exception is where the party is a "nominal" plaintiff. An executor, administrator or a trustee, even if suing solely for the benefit of others, is not a nominal plaintiff."

Human rights don't apply to corporations

There are limitations to the legal recognition of corporations, in many cases, fundamental human rights are implicitly granted only to natural persons. For example, the Nineteenth Amendment to the *United States Constitution*, which states a person cannot be denied the right to vote based on gender, or Section 15 of the *Canadian Charter of Rights and Freedoms*, which guarantees equality rights, apply to natural persons only.

The extent to which a legal entity can commit a crime varies from country to country. Certain countries prohibit a legal entity from holding human rights; other countries permit artificial persons to enjoy certain protections from the state that are traditionally described as human rights.

An example of the distinction between natural and legal persons is that a natural person can hold public office, vote, marry, and possess several other similar rights, such as the right to freedom of speech, right of equality etc, whereas a corporation does not. Legal entities do not have these basic human rights and functions, and in most jurisdictions there are certain governmental positions which they cannot occupy.

A corporation does, however, usually possess five legal rights...

- The right to a common treasury or chest (including the right to own property)
- The right to a corporate seal (i.e., the right to make and sign contracts)
- The right to sue and be sued (to enforce contracts)
- The right to hire agents (employees)
- The right to make by-laws (self-governance).

In reference to the Victorian [Charter of Human Rights and Responsibilities Act 2006](#), human rights are conferred on 'persons' only, with 'person' for the purposes of the Charter defined to mean human beings and so excluding corporations and other non-human legal persons (ss 3, 6(1):

"person" means a human being;"

[Note to s 6\(1\)](#); see also *Rossi Homes Pty Ltd v Dun and Bradstreet (Australia) Pty Ltd (Civil Claims)* [2017] VCAT 1839 [at 39]

*Despite the definition of 'person' in s 3, courts have differed on whether the reference to 'the rights and reputation of other persons' in s 15(3)(a) includes non-human persons. The most recent Supreme Court decision on this point follows the s 3 definition of 'person' and states that s 15(3)(a) refers only to the rights and reputation of human persons (*Magee v Wallace* (2014) 247 A Crim R 149; [2014] VSC 643 [47]; cf *Magee v Delaney* (2012) 39 VR 50; [2012] VSC 407 [117] – [112]).*

How can a corporation be a legal person?

The concept of a juridical person is now central to Western law in both common-law and civil-law countries, but it is also found in virtually every legal system. Corporations are treated as a 'person' in all forms of law to solve a legal problem that arose when corporations first came about. Before this, the law only dealt with the flesh and blood 'person', and it was very easy for a group to escape liability by denying that any particular individual had anything to do with it.

A corporation is formed out of legal convenience so that one or many people can have 'many hands' in many places at once and makes a group of people accountable. If an employee of a company commits a wrong, the company is vicariously liable: [Hollis v Nabu \(2001\) 207 CLR 21](#).

A corporation, in legal terms, is also a human entity and considered to be a single legal creature. It has a 'body' consisting of the individuals making up the group, and a 'head' consisting of the board of directors. The law is concerned with what the 'body' does after an instruction from the 'head': [Universal Telecasters \(Qld\) v Guthrie \(1978\) 18 ALR 531](#).

As a result, corporations are liable under law for both civil suits and criminal charges: [Morgan v Babcock & Wilcox Ltd \(1929\) 43 CLR 163](#).

A legal person is: (1) A human, or group of humans. (2) Functioning independently.

A legal person is both protected by law, and liable. Legal capacity and status of citizenship are irrelevant in terms of the legal definition of a 'person'.

"So far as legal theory is concerned, a person is any being whom the law regards as capable of rights and duties. Any being that is so capable is a person, whether a human being or not."

- McNerney J. (Green's case at p.18) Salmond on Jurisprudence (10th ed., ed. by Dr. Glanville Williams), (1947), p.318. See also Taff Vale Ry. Co. v. Amalgamated Society of Ry. Servants, (1901) AC 426, at p.429.

Legal theory distinguishes between two kinds of legal persons-natural and legal. Legal persons recognized by our system of law include corporations-corporations sole, corporations aggregate companies, institutions (e.g. universities), created either by charter or by Act of Parliament (e.g. companies under the Companies Act), and organizations (e.g. trade unions, employers' associations) incorporated e.g. under the Conciliation and Arbitration Act: see [Williams v. Hursey \[1959\] HCA 51; \(1959\), 103 CLR 30](#), at pp.51-3; per Fullagar, J.

"Entity, as a firm, that is not a single natural person, as a human being, authorized by law with duties and rights, recognized as a legal authority having a distinct identity, a legal personality. Also known as artificial person, juridical entity, juristic person, or legal person. Also refer to body corporate."

"Entity (such as a firm) other than a natural person (human being) created by law and recognized as a legal entity having distinct identity, legal personality, and duties and rights. Also called artificial person, juridical entity, juristic person, or legal person. See also body corporate."

*"**An entity** (as a partnership or corporation) that is given rights and responsibilities — compare natural person. The rights and responsibilities of a juridical person are distinct from those of the natural persons constituting it."*

To have legal personality means to be capable of having legal rights and duties within a certain legal system, such as to enter into contracts, sue, and be sued. Legal personality is a prerequisite to legal capacity, the ability of any legal person to amend (enter into, transfer, etc.) rights and obligations. In international law, consequently, legal personality is a prerequisite for an international organization to be able to sign international treaties in its own name.

In Section 38 of the Interpretation of [Legislation Act 1984](#) "entity" is defined to include a person (both a human being and a legal person) and an unincorporated body.

Some examples of juridical persons include: Cooperatives, Sole Corporations, Municipal corporations, Unincorporated associations, Partnerships, Companies, Temples and Churches, even Sovereign states and entities such as the United Nations.



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