

DIVINE JUSTICE: WHEN GODS ENTER THE COURTROOM AS A LEGAL PERSON

Anushka Singh*

LEGAL ENTITIES IN LAW AND PRACTICE

The legal or juristic personality is the genesis of unlatched jurisprudence which adopts a legal mechanism to fill the voids left behind within the society after the due nomenclature of all the natural entities within the legal dictionary.

The jurisdiction had never delimited itself between the organics and inorganics rather it humanifies all the lifeless entities with its very own persona in correspondence to the legal schemas. Whenever law acknowledges or comprehends any integral as competent enough to retain their respective rights and obligation it is deemed to be a juridical personality in step with Black's Law Dictionary.

This polarity in the middle of a 'person' and 'legal person' was deciphered from one of the bygone commentaries of the *Justinian Code* of a Roman scholar, *Gaius* wherein the slaves then were treated as legal beings or persons as they were perceived as inhuman without any actual natural cause or traits akin to humans but rather having more of a similar disposition.

Thereby, like Black's Law Dictionary, Salmond also defined a 'person' (i.e. a legal entity) as the one who within the eyes of the law owns a potential to have self-intrigues, grades and standards that credit to self-actions, virtues and duties wherein this potential became the sole determiner for the juridical personality.

Subsequently, the word 'person' became the primary concept which was equated as a legal personality with key humanoid or man-like qualities delegating responsibilities and privileges besides humans as the only natural creatures.

Secondly, according to recent Western bylaws and codes, individuals must meet certain key prerequisites to be identified as ideal juristic persons. They should possess *humanity*, must be *born and alive*, and must have *sentience or consciousness*. Thus, many times in America the

*BA LLB, SECOND YEAR, HIDAYATULLAH NATIONAL LAW UNIVERSIT, RAIPUR.

status of legal personhood has often been denied to foetuses that are not yet born, stillborn children, and anencephalic infants (those with partial or total loss of brain function).

Alike humans, the legal regime concedes parallel and not equal legal rights and obligations of a non-natural or fictitious or lifeless person which could be materialistic or unmaterialistic. This is indicative of the very fact that although the law provides a legal rationale for their lawful existence still, they are more often the objects of themselves rather than their very own subjects. However, because it makes no express mention of the topic, the Indian Constitution stays mute on it.

THE IDEA OF GOD IN THE LEGAL SPHERE

“The oldest of all juristic persons is the god, here or the saint.”¹

As per Indian legal philosophy, an idol or deity or God as one of the tangible figurines was devised under it as a juristic or legal personality.

During the late British India period, English adjudicators of the Privy Council devised a judicial relief to bestow idols and deities with essential prerogatives and authorities as owners. This empowered them to constrain and restrain their indigenous chattels along with other possessions, which acts as a cushion to fortify their interests and appeals thereby, safeguarding their proprietary, tenorial, occupancy, and estate retention rights. Besides, ensuring uniform dispersal of religious gains to the society, this legal escort aimed to prevent felonious land transfers and asset seizures by clarifying and reinforcing the legal standing of these tangible or legal entities.

However, according to numerous judicial rulings, not every deity or idol across different religions is automatically granted juristic legal entitlement. This recognition is discretionary and contingent upon the courts, which assess factors such as cultural, regional, religious, historical, and circumstantial relevance. Consequently, this entitlement is neither absolute nor permanent; it fluctuates depending on the state, temple, idol, and religion in question.

The above implies that under the Indian Constitution, these legal individuals are not entitled to the same rights as natural persons. Similarly, the pretences raised in the *Sabarimala case*² about

¹ *Vidyapurna tirtha swami v vidyanidhi tirtha swami* (1904) ILR 27 Mad 435

² *Indian Young Lawyers Association v The State of Kerala* AIR ONLINE 2018 SC 243

Lord Ayyappa's fundamental rights underlying Article 21³ were declined given that these are merely envisioned to act as a buffer against injustice. Moreover, as the idol or deity is a non-human entity plus, been a legal person it is been represented as a minor by the caretaker, attendant, custodian or as its guardian or someone else who serves it.

Hindu law holds that there are two different spiritual avenues—the idol and the Muth—through which a person's soul can ultimately find redemption. Because Hindus believe that idols are the real expression of their gods, they venerate them in temples, which are the sacred abodes of these celestial beings. Apart from the temple, the deity's holdings or revenue includes additional material and financial stakes notably trust properties, rental revenue collected from movable or immovable properties, and charitable investments as ornaments, contributions, and offerings.

Self-created idols and consecrated idols are the two premier categories of idols. Self-created idols emerge naturally when a piece of wood or stone acquires revered status due to its intrinsic engraved images. These idols are entirely natural in origin, without human intervention, and can only be discovered, never artificially created by humans. They are inherently endowed with the status of juristic persons without the need for consecration.

Conversely, consecrated idols are man-made, crafted by humans from materials such as wood, metal, stone, clay, or drawn on paper. These idols attain the status of legal persons only after undergoing consecration, which involves official religious solemn ceremonies and orations. Consecration confers the Image's legal autonomy, with the sole exception of those that are self-created. Before being sanctified, an image is neither regarded as an instrument of devotion nor a legal individual. We will now delve deeply into both landmark case laws and local or state-level rulings to grasp the profound impact of their application at the foundational level of the nation.

JUDICIAL PRECEDENTS

Hinduism:

*Pramatha Nath Mullick v. Pradyumna Kumar Mullick.*⁴ The Privy Council for the first time approves the legal existence of an idol, conceding its holy site as the deity's preferred residence.

³ Constitution of India 1950, art 21

⁴ *Pramatha Nath Mullick v Pradyumna Kumar Mullick* (1925)27BOMLR1064

It also lays out the crucial necessity of consecration for such identification, emphasising that the physical manifestation of the deity or its structure is merely a tool for practising faith; the complete veneration ceremony transforms the image into a vessel of the supernatural force, which is the ethereal soul.

Ram Janmabhoomi Temple-Ayodhya Case:⁵ The Supreme Court of India in this latest precedent authenticated the discrete legal personhood or identification of Sri Ram's idol coupled with the past settings. This legal label aligns with the stance on *pious purpose* inferred from the idol itself, emphasizing its religious significance.

Whenever an idol is bequeathed, it assumes a legal persona imbued with its inherent righteous purpose. It is not essential that the physical structure of the idol must always be retained to uphold its purpose. Whether the idol is destroyed, absent, or recurrently present in the temple at the testator's death is immaterial though customary practices might be influenced. However, not reconsecrating could be seen as poor management, which might result in legal action being filed against the people in charge of the idol's upkeep. The sacred objective persists through the visual representation of the idol, ensuring that the pious purpose remains the primary beneficiary. Thus, the individual who is a juristic entity is the idol, not the god.

Yogendra Nath Naskar v. CIT:⁶ The Supreme Court of India rendered an abiding ruling, holding that the Hindu god is a juridical entity with a specific purpose for which it is permitted to possess property designated under trustees or shebait. If the idol is legally authorised to possess items, then it stands to reason that other laws, such as those pertaining to property taxes and sales taxes, should also apply to them through their trustees. A Hindu god is considered an individual for the purposes of imposing the necessary tax under *the Income Tax Act*⁷.

M.L. Hanumantha Rao v. Sri Sai Baba:⁸ In the case, the maintainability of the suit was challenged against the defendant who was a deity Sri Sai Baba as represented by its trustees for recovery of the property under the same. The area of contention was whether an image (here, Sri Sai Baba) within the premises of a temple reflecting a human form, can be rendered as a 'deity' as a juridical person to be able to sue and be sued.

⁵ *M. Siddiq v Mahant Suresh Das and Ors.* AIR ONLINE 2019 SC 1420

⁶ *Yogendra Nath Naskar v CIT* 1969 SCR (3) 742

⁷ Income Tax Act 1961

⁸ *M.L. Hanumantha Rao v Sri Sai Baba* (1980) 2 MLJ 518

Justice Ramanujam stated that the degree of true credence and devotion practised by its devotees is the mark of strong certitude towards their deity which signifies their religiosity through ethereal upliftment. This makes it very clear that just a human form of an idol in an image will not invalidate it to have a legal identity as the image is only the evident mode of manifesting the god. Thus, an image is in no way an illusionary variable.

Ratnavelu Mudaliar v. Commissioner for Hindu Religious and Charitable Endowments:⁹ It decides on whether a place of Samadhi as the origin of a shrine could be equated as a 'temple'. Justice Viswanatha Sastri quoted that, it is based upon the length of time when society at large deemed it as a religious facility over an extended time frame to hold accountability despite its source to fall within the definition of 'temple'.

Bumper Development Corporation Ltd. v. Commissioner of Police for the Metropolis:¹⁰ In this context, the consecrated Nataraj idol was recognized in the London court as a foreign juristic entity, where it was argued that an idol could only be a party to a suit under English legal course if recognized as such by local-national bylaws. Justice Kennedy emphasized the nuanced acumen of the idol, acknowledging that for some to a greater extent, it represents a supreme being, while for others, it is merely an inanimate object.

Raja Bather Mudalier, N.S. v. Government of Tamil Nadu:¹¹ The present case delineates the role and status of the trustee as a guardian to the deity, regarded as a minor. It was clarified that only a de jure trustee, formally appointed and legally accountable for the supervision, management, and organization of the idol's or minor's accounts and assets, is obligated to ensure their safekeeping, except during periods when the office is vacant. Meanwhile, a de facto trustee can perform the same duties even without a formal appointment.

Subramania Gurukul v. Abhinav Poornapriya:¹² This case further elucidated the role of a de facto trustee, as referenced in the previous precedent. Although a de facto trustee may lack formal legitimacy to hold property, they can still assert their rights over the property and file a suit for its recovery, provided they operate under the authority of a manager who is not absconding. The court reiterated principles from Hindu dharma, emphasizing that a trustee

⁹ *Ratnavelu Mudaliar v Commissioner for Hindu Religious and Charitable Endowments* AIR1954MAD398

¹⁰ *Bumper Development Corporation Ltd. v Commissioner of Police for the Metropolis* [1991] EWCA Civ J0213-5

¹¹ *Raja Bather Mudalier, N.S. v Government of Tamil Nadu* 1970 SCR (2) 299

¹² *Subramania Gurukul v Abhinav Poornapriya* AIR 1940 MADRAS 617

manages these possessions as a service to the deity. Thus, Indian jurisprudence upholds the subservient rights of a trustee, which align with religious codes and are not considered significantly erroneous.

Shiromani Gurdwara Prabandhak Committee v. Som Nath Dass:¹³ The court affirmed that the Guru Granth Sahib is also recognized as a legitimate individual. By interpreting the sacred doctrines and traditional context of Sikhism, it was established that the Guru Granth Sahib serves as a totem, instituted to succeed the position of Guru (the most revered post) following the death of the tenth Guru. Consequently, it is revered as a mortal spiritual leader. Therefore, it cannot be associated with other religious testaments like the holy Quran, Geeta, Bible or an idol owing to their divergent theological convictions and impetus.

Furthermore, it was well established that the Gurudwara and Guru Granth Sahib are intrinsically linked as a cohesive entity which otherwise is futile to make any sense since the presence of the Guru Granth Sahib is essential for the Gurudwara to maintain its sanctity and continued existence as a holy site of worship. Nevertheless, the Guru Granth Sahib does not attain legal personality until it is enshrined in a Gurudwara or another authorized public institution. Subsequently, this implies that the definition of a "juristic person" is not rigidly fixed and can vary based on specific contexts.

Krishna Singh v. Mathura Ahir:¹⁴ The court presided that a mutt is a juristic body where an idol is erected, just like a temple under Hindu customary law.

Vidyapurna tirtha swami v. vidyanidhi tirtha swami:¹⁵ The office of the bishop and the manager of the mutt are two different offices, the court explained. The bishop leaves all of his possessions to his legitimate heirs, unlike the head of the mutt. Furthermore, the incapacity (due to lunacy) of the head of the mutt will neither strip him of his title nor result in the loss of the mutt's properties.

¹³ *Shiromani Gurdwara Prabandhak Committee v Som Nath Dass* 2000 (4) SCC 146

¹⁴ *Sri Krishna Singh v Mathura Ahir And Ors* 1980 AIR 707

¹⁵ *Vidyapurna tirtha swami v vidyanidhi tirtha swami* (1904) ILR 27 Mad 435

Islam:**PHASE-I: UNDIVIDED INDIAN COURTS**

Herein, an analogy was drawn between a temple and a mosque with no real disparity and regarded the mosque as a juridical person.

*Jindu Ram v. Hussain Baksh and Another:*¹⁶ It was one of the earliest rulings of undivided India, wherein the Lahore high court ruled that the mutawalli of a mosque and the trustee or the manager of the Hindu temple or mutt share equivalent pre-emptive rights in the manner that both are religious structures.

*Shanher Das v. Said Ahmad:*¹⁷ The ruling also debated that while theoretically, a waqf is immune from human dominion, a mosque, as an establishment embodying a waqf, requires an authorized person to oversee the safekeeping of its assets. Consequently, the mosque performs its exclusive rights through its legal guardian.

*Maula Bukhsh v. Hafiz-ud-Din and Others:*¹⁸ In accordance with the Muhammadan jurisprudence, it was opined by the Lahore High Court that gifts and other offerings in support of a mosque are permissible been a legal entity.

PHASE II: BRITISH INDIAN COURTS

Hereafter, it was alleged that the mosque is not a legal individual, in contrast to past rulings.

*Masjid Shahid Ganj and Others v. Shiromani Gurdwara Prabandhak Committee:*¹⁹ The Privy Council drew a line of distinction between Guru Granth Sahib and the mosque by concluding that no lawsuits can be brought by or against a non-fictitious person like a mosque which cannot become a party to the suit being a non-juristic entity.

The colonial courts disregarded the Islamic code and prior rulings, asserting that a mosque lacks locus standi as a juridical personality. They reasoned that the mosque is merely a place for offering prayers to the Almighty, a non-tangible entity, and thus does not have a central

¹⁶ *Jindu Ram v Hussain Baksh and Another* AIR 1914 Lah 444

¹⁷ *Shanher Das v Said Ahmad* AIR 1934 ALLAHABAD 481

¹⁸ *Maula Bukhsh v Hafiz-ud-Din and Ors.* AIR 1926 Lah 372

¹⁹ *The Mosque, Masjid Shahid Ganj and Ors. v Shiromani Gurdwara Prabandhak Committee* (1940)42BOMLR1100

point of legal significance. However, the Privy Council left the question open whether a mosque could for any purpose be regarded as a juristic person.

PHASE III: INDEPENDENT INDIAN COURTS

Finally, the apex court of independent India provided a culturally contextual rationale for the distinct legal status between the Guru Granth Sahib and a mosque, affirming the mosque's non-juristic personality.

*Ismail Faruqui v. Union of India:*²⁰ The court contented that offering prayers or namaz to the almighty is a cardinal feature of Islamic religion not tied to the mosque itself. Namaz does not require a fixed location and can be performed in any free space, provided it is not endowed with specific spiritual relevance.

*M. Siddiq v. Mahant Suresh Das and Others:*²¹ The court opined that the Islamic code and attestations do not relate the mosque as an artificial person capable of exercising individual legal rights and obligations. While there is no implicit concept of a legal person in this context, resulting in the absence of any jural relations.

Theologically, the mosque does not imitate its renowned cultural and spiritual origins, in contrast to other faiths like Hinduism or Sikhism. It's a landmark used to host public sermons and gatherings been its prime concern. Additionally, as stipulated by shariat law, both administrative operations and proprietary acts linked with a mosque are a consolidated imperative of the Muslim society to oversee. Hence, the mosque status of legal personhood was unequivocally rejected signifying that not all legal persons are comparable.

Christianity:

*Rev. Fr. Farcisus Mascarenhas v. The State of Bombay:*²² Early classical Roman law recognized a consecrated Catholic church as a juristic person. In contrast, similar to England and the United States, the Indian judiciary does not view it as a reliable source and contends that a church is not a legal entity as per the same stance that also applies to mosques, considering them places of divine worship without a fixed legal identity or nucleus.

²⁰ *Ismail Faruqui v Union of India* 1994 (6) SCC 360

²¹ *M. Siddiq v Mahant Suresh Das and Ors.* AIR ONLINE 2019 SC 1420

²² *Rev. Fr. Farcisus Mascarenhas v The State of Bombay* (1960) 62 BOMLR 790

Jainism:

Meghraj and Others v. Sri Digambar Jain Mandir.²³ The Allahabad court redefined that Jains are not a derivative of Hinduism, as they follow distinct lineages and worship different idols. Even though they both have a few common practices and beliefs and a shared legal domain in personal laws, Jainism is a separate autonomous religion accredited by law. The court concluded that Jainism should not be considered synonymous with Hinduism and cannot be interchangeably used. It emphasized the necessity for unique legal interpretations to determine Jainism's legal autonomy, which must be assessed on a case-by-case basis.

CRITICISMS

- Recognizing a deity as a legal person in a religiously plural nation can blur the line between religion and state, potentially leading to false perceptions of inequality and religious bias.
- This recognition may result in a higher percentage of unmaintainable suits lacking feasibility and locus standi, often used as propaganda for media coverage, degrading the judicial system's credibility and dignity.
- It raises critical issues for the justice system at the time of implementation, questioning how a non-human entity can be held accountable, fulfil legal duties, or participate in legal proceedings.

Journal of Legal Research and Juridical Sciences

CONCLUSION

Initiated by colonial jurists, the Indian legal system breaks new ground as it has evolved to embrace the principle of recognizing idols as legal persons, showcasing a contemporary judiciary that balances cultural sensitivity with legal pragmatism. This advancement acts as a curative measure, reflecting a nuanced approach to modern judicial practices.

The above-aggregated study of recent timelines reveals that each religion has its unique core and spectrum of beliefs, necessitating assessment through multiple independent parameters and leading to varied interpretations. The judiciary must exercise restraint and controlled application of this concept, using it only in cases of genuine necessity with appropriate rationale.

²³ *Meghraj and Others v Sri Digambar Jain Mandir AIR 1941 ALLAHABAD 290*

Excessive involvement of deities in legal matters could undermine the secular nature of the judiciary, resulting in unnecessary interference and inconsistent interpretations, potentially leading to a proliferation of case laws.

REFERENCES

- ‘THE INDIAN KANOON’ (*The Corporation Of The City Of Nagpur vs Its Employees*, 10 March 1960) <<https://indiankanoon.org/doc/1733637/>> accessed 27 June 2024
- Saivarunkapuluru, ‘THE LEGAL SERVICE INDIA’ (*Evolution of Definition Of Industry Under Labour Law*) <<https://www.legalserviceindia.com/legal/article-8278-evolution-of-definition-of-industry-under-labour-law.html>> accessed 27 June 2024
- R Sai Gayatri, ‘IPLEADERS BLOG’ (*Legal rights and status of a person, unborn child and environmental resources*, 30 July 2021) <<https://blog.ipleaders.in/legal-rights-status-person-unborn-child-environmental-resources/>> accessed 27 June 2024
- ‘THE EASTERN BOOK COMPANY’ <<https://ebc.co.in/>> accessed 27 June 2024
- ‘SCC ONLINE’ <<https://www.seconline.com/>> accessed 27 June 2024
- Umamgeswari M., ‘THE LEGAL SERVICE INDIA’ (*Rights of A Deity*)