



CORPORATE PERSONALITY AND LEGAL STATUS: AN ANALYSIS OF SEPARATE LEGAL PERSONALITY AND THE LIFTING OF THE CORPORATE VEIL

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<https://doi.org/10.5281/zenodo.15354289>

Abstract

This thesis explores the principle of separate legal personality in corporate law and the limited circumstances under which courts may lift the corporate veil. Rooted in the landmark case *Salomon v A Salomon & Co Ltd* [1897], the doctrine treats a company as a distinct legal entity, offering protection to shareholders and encouraging investment. However, this legal separation can also be misused to avoid liability or conceal wrongdoing. Using a doctrinal research approach, the study examines key legal sources including statutes, judicial decisions, and academic literature. Special focus is given to recent cases such as *Prest v Petrodel Resources Ltd* [2013] and *Sevilleja v Marex Financial Ltd* [2020], which have redefined the boundaries for veil-piercing in the UK. The findings reveal that courts remain cautious and restrict intervention to cases of legal evasion, prioritising legal certainty over broader notions of fairness. Comparative analysis with US and Australian practices highlights different approaches, particularly in the use of "alter ego" doctrine and statutory rules. The thesis concludes that while the doctrine of separate personality is essential for economic growth and legal clarity, it must be balanced with regulatory reforms aimed at enhancing corporate accountability, such as greater transparency in beneficial ownership (OECD, 2021; Kraakman et al., 2017). The limited nature of veil-piercing calls for complementary policy tools rather than expanding judicial discretion.

Introduction

One of the most important features of corporate law is the idea that a company is its own legal person, separate from the individuals who run or own it. This principle was firmly established in the famous English case of *Salomon v Salomon & Co Ltd* [1897] AC 22. It gives companies legal identity, meaning they can sue, be sued, and hold property independently. However, in some situations,





courts may choose to "lift" or "pierce" the corporate veil to look beyond the company's legal personality and hold its members personally responsible.

This thesis explores the legal foundations and practical implications of corporate personality and the circumstances under which the veil may be lifted. Through recent case law and academic opinion, it critically evaluates whether this doctrine strikes a fair balance between encouraging entrepreneurship and preventing abuse of corporate status.

Methodology

This research adopts a **doctrinal legal method**, focusing on analysing statutes, case law, and academic commentary. The analysis is qualitative, relying on primary legal sources like judicial decisions, alongside secondary sources such as legal journals and commentary. A combination of **classic cases** like *Salomon* and **recent UK decisions**, such as *Prest v Petrodel Resources Ltd* [2013] UKSC 34 and *Sevilleja v Marex Financial Ltd* [2020] UKSC 31, are examined. The study also considers **comparative insights** from other common law jurisdictions like the United States and Australia to assess the evolving understanding of corporate personality.

Results

Separate Legal Personality

The doctrine of separate legal personality is best explained in *Salomon*, where the House of Lords ruled that once a company is properly incorporated, it becomes a distinct legal entity. This means that the debts and liabilities of the company do not automatically transfer to the shareholders or directors. This principle is now enshrined in **Section 16(2) of the Companies Act 2006**, which states that on incorporation, a company becomes a body corporate capable of exercising all functions of an incorporated company.

This legal protection is vital for entrepreneurship, as it encourages investment by limiting personal liability. However, it also creates the risk of misuse, especially in cases where the company is used as a "façade" or sham.

Lifting or Piercing the Corporate Veil

Courts may intervene and lift the corporate veil in cases of fraud, dishonesty, or where the company is used to evade legal obligations. The term "lifting the veil" refers to the process of disregarding the company's separate personality to reach those behind it.

In ***Prest v Petrodel Resources Ltd***, the UK Supreme Court clarified that the veil may only be pierced where a person is under an existing legal obligation



or liability, and deliberately evades or frustrates that obligation by interposing a company. This significantly narrowed the scope of veil-piercing, limiting it to what Lord Sumption called the "evasion principle."

Another key ruling is **Sevilleja v Marex Financial Ltd**, where the Supreme Court rejected expanding veil-piercing doctrines, instead reinforcing that claims should respect the legal boundaries between a company and its shareholders.

Meanwhile, in the case of **Gilford Motor Co Ltd v Horne** [1933] Ch 935, the court lifted the veil where a former employee used a company to breach a non-compete clause. Similarly, in **Jones v Lipman** [1962] 1 WLR 832, the veil was pierced to prevent the abuse of the company form to escape specific performance of a contract.

These results show that while separate legal personality is a strong doctrine, courts retain the power to intervene in cases of wrongdoing—but only in very limited situations.

Discussion

Doctrinal Strength vs Practical Weaknesses

The doctrine of corporate personality has remained remarkably stable for over a century. It is praised for bringing predictability, reducing business risk, and supporting economic growth (Kraakman et al., 2017). However, its consistent application also creates opportunities for exploitation. Fraudsters can hide behind companies, using the separate personality as a shield against liability.

For instance, in the **Grenfell Tower inquiry**, it was noted that some responsible parties had operated through multiple layers of corporate entities, making accountability difficult. While not a classic veil-piercing case, it reflects how complex corporate structures can frustrate justice (UK Government, 2022).

Prest and the Evasion Principle

The *Prest* case significantly redefined how veil-piercing should work. The court moved away from vague standards and clarified that only in **evasion** cases—where a legal duty is deliberately avoided—can the corporate veil be pierced. Lord Sumption's judgment criticised past judicial activism that blurred legal boundaries and insisted on strict tests. This is now the leading UK authority.

Critics argue that this approach may be too narrow. According to Farrar (2020), the focus on intention and legal obligation may ignore broader ethical concerns and corporate misconduct that does not involve formal legal evasion but still causes harm.





Comparative Perspectives

In the **United States**, courts use doctrines like "alter ego liability" to pierce the veil, especially where undercapitalisation or lack of formalities is evident (Thompson, 1991). US courts are generally more open to piercing the veil compared to the UK, although still cautious.

In **Australia**, the *Corporations Act 2001* provides limited statutory grounds to pierce the veil, especially where the company trades while insolvent. This reflects a more proactive legislative approach.

Policy Concerns

From a policy standpoint, the tension lies between **protecting investors** and **preventing abuse**. On one hand, too much veil-piercing discourages investment and undermines confidence. On the other hand, allowing companies to be misused undermines justice and public trust in corporate structures. Modern trends, including **beneficial ownership transparency** and **public registers of directors**, aim to strike a better balance (OECD, 2021).

Conclusion

The doctrine of corporate personality, as established in *Salomon*, remains central to UK company law. It enables businesses to operate with limited liability, attracting capital and fostering innovation. However, this legal shield can be misused. The power to lift the corporate veil, though rarely exercised, is an important judicial tool to prevent injustice.

The evolving case law, especially *Prest*, shows a clear movement toward restricting veil-piercing to clear cases of legal evasion. While this ensures legal certainty, it also narrows the court's discretion and may leave some victims of corporate abuse without remedy. Policymakers should consider complementary measures, such as director transparency and stricter oversight, rather than broadening veil-piercing rules, to improve accountability while maintaining the benefits of corporate personality.

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