

HUMANIST DIMENSIONS OF MACHINES

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ABSTRACT

Artificial Intelligence (AI) is an emerging and fascinating field of robotics defined by McCarthy as “the science and engineering of making intelligent machines”. The expanding scope of “artificially intelligent” machines and robots into possible systems with the ability to make cognitive choices equates them to almost human-like entities. This study describes the distinction between machines, robots and AI in their current state of order. Furthermore, ‘machine learning’ as the basis of increased algorithmic performance over time has been built on to elucidate the practical and theoretical possibilities of AI and AGI. Constructive arguments on the basis of performance and resemblance to human beings have been considered to make a case for machines as sovereign right-owning entities within the current legal framework. The scientific dimensions of consciousness have been tested through a logical-psychoanalytical approach employing Sigmund Freud, Roger Penrose and Kurt Gödel’s theoretical framework to demonstrate that despite machine learning advancements, the nature and origin of human consciousness is fundamentally distinct from machine and robot entities. Therefore, despite tempting advancements they remain non-equitable entities in the current state of affairs.

Keywords: Artificial Intelligence (AI), Robots, Machine Learning, AI Rights, Legal Personhood, Consciousness

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I. Introduction

THE WORD “Artificial Intelligence” (hereinafter called AI) was coined only in 1958 but humans have been asking the robot question since before that. In 1940, Disney adapted Carlo Collodi’s childrens’ book ‘The adventures of Pinocchio’ into a feature film. In this movie Pinocchio repeatedly asks a simple question, “*am I a real boy?*” and while the question may seem redundant to the discourse of machine rights it is anything but. The biopolitical question that Pinocchio is asking is “*Do I - a Non-Human Entity with the functional body apparatus of speech, movement and thought equitable to a same-aged human being - qualify for legal personhood?*”. Pinocchio presents himself as a prototype social robot. Social robots should not be thought of as either slaves or companions if we are to describe their ontological & axiological status accurately. This dichotomy is based on the normative view of looking at human-robot interactions in dyads of ownership v. autonomy, subordination v. decision-making & utility v. personhood. This paper concerns itself with the developments that have gone into shaping these dichotomies & seeks answers to Pinocchio’s innocent question from a legal & scientific framework.

The Industrial revolution re-imagined human history in an unprecedented manner, never before in history did a landmark change the operative nature of society so rapidly and permanently as the industrial revolution did. Through decadal leaps in technology, machines today have evolved in a Darwinian fashion from simple mechanical objects that made work easier, to complex pre-programmed instruments that - in many cases - has removed the human entirely. The ontological contestation however originates from the evolution of machines from limited mechanical tools into now an entity with its intelligence intact. The current nature of AI in popular knowledge is arrived at by automated complex procedures such as machine learning which have not yet created entities that have a sentience of their own. It is therefore often dismissive to make a case for the same, but such a case is not entirely unnecessary. It considers the possible approaches a traditionally “owned” entity may qualify for sovereignty and legal rights. The case also presents questions regarding the nature of human consciousness and how can the same be extended to machines as a metric of evaluation?

II. Machines, Robots and AI

In order to advocate the rights for machines one must qualify whether the extension of legal personhood is necessitated for them. Granted, a case for rights for a collection of inanimate moving gears feels like a privileged inquiry in jurisprudence when many in the subaltern periphery are denied basic human needs. However, this inquiry builds on the changing nature of machines in the last few decades and with the invention of a pre-programmed algorithmic consciousness. The conversation can be categorised on the basis of:

- Machines
- Robots
- Artificial Intelligence

While a machine is a mechanical or electrical device that assists in human task's performance which otherwise would be laborious, a robot is a pre-programmed machine setup that carries out a range of tasks. A Machine may be compared to the body parts and the robot may be compared to the body apparatus of a human being. Robots are machines with additional features granting them more functionality.¹ Robots are self-governing machines capable of making decisions without an external trigger.² But much like a human is not complete without a functional cognitive mind of one's own, robots too are incomplete without a self-governing mind of its own. The proverbial mind of the robot body is the Artificial Intelligence (AI) *i.e.*, simply understood as the intelligence demonstrated by a machine or a robot. Dr. John McCarthy coined the term "*Artificial Intelligence*" in 1958. AI, according to him, is "*the science and engineering of making intelligent machines.*"³ Marvin Minsky calls it "*the science of making machines do things that would require*

¹ Humanoid robots: These robots can perform human-like activities. They look like humans and mimic human actions. Hanson Robotics' Sophia is a perfect example of humanoid robots. Teleoperated robots: Humans control these robots. They perform tasks in extreme conditions where humans cannot operate. Human-controlled submarines or drones are examples of teleoperated robots. Autonomous robots: These are independent robots that do not require human intervention. They carry out tasks on their own. A perfect example would be the Roomba vacuum cleaner. It uses sensors to roam throughout a home freely.

² "Robot vs Machine: Difference Between A Robot and A Machine?", *available at*: <https://www.robotsscience.com/resource/difference-between-a-robot-and-a-machine/> (last visited on 29 October 2020).

³ John McCarthy "What Is AI?/Basic Questions" (2018), *available at*: <http://jmc.stanford.edu/artificial-intelligence/what-is-ai/index.html> (last visited on August 30, 2022).

intelligence if done by men."⁴ AI is a domain of computer science which deals with generating algorithms to further build smart machines as competent as humans.⁵ The process of making intelligent machines takes place through a procedure called 'machine learning'. Machine Learning is defined by Harry Surden as "*computer algorithms that have the ability to 'learn' or improve in performance over time on some task*"⁶. The use of machine learning is determined by the inherent differences in the type of the machines they can be categorised with and the kinds of tasks they can perform. Machine learning provides "*a statistical process that starts with a body of data and tries to derive a rule or procedure that explains the data or can predict future data*"⁷ granting AI the ability to make sense of new data and produce results on its own with a reasonable degree of independence.

AI is an emergent and speculative field. In its current state, five categories of AI broadly exist. Of these the possible extents of AI have been classified as "*Narrow AI*" which includes Reactive machines and Limited memory AI. Artificial General Intelligence or AGI is the more exciting theoretical possibility of AI that seeks to create systems that exhibit intelligent behaviour across a range of cognitive tasks. The Theory of Mind and Self-aware AI are the possibilities of AGI. Finally, the epitomization of theoretical AI has been labelled as 'artificial superintelligence' (ASI). To consider whether a case for rights of machines can be made in its current state, let us look at these types in greater detail:

Reactive machines: This is the most basic and oldest form of AI. Reactive machines have extremely limited capacity and can only do basic operations which has to do with the emulation of the human mind's ability to respond to different kinds of stimuli. They cannot form memories or use past experiences which means their previously gained experience does not inform their

⁴ United Nations Educational, Scientific & Cultural Organization (UNESCO), "Report of COMEST on Robotics Ethics" (September, 2017), *available at*:

<https://unesdoc.unesco.org/ark:/48223/pf0000253952/PDF/253952eng.pdf.multi> (last visited on October 17, 2023).

⁵ Rose Velazquez, "Artificial Intelligence. What is Artificial Intelligence (AI)? How Does AI Work?" (2022), *available at*: <http://jmc.stanford.edu/artificial-intelligence/what-is-ai/index.html> (last visited on 30 August 2022).

⁶ Harry Surden, "Machine learning and law" 89 *Washington Law Review* 87 (2014).

⁷ Executive Office of the President National Science and Technology Council Committee on Technology, Executive Office of the President of the United States, "Preparing for the Future of Artificial Intelligence" 8 (2016).

present choices/decisions. IBM's Deep Blue is the perfect example of this type of AI which had beaten international Grandmaster Garry Kasparov in 1997.⁸

Limited memory: This type of AI can store existing data and create better output by learning from historical data to make decisions. This is the most popularly known AI in common use. The interactive pre-programmed software in mobile devices such as Siri, Cortana and Alexa are all limited memory AIs. They are conditioned by the deep learning systems that store layers of data to act as a reference model. For example, Tesla's self-driving cars observe the speed of vehicles and direction and act in accordance with the levels of stimuli it is receiving, processed by a system of algorithmic calculations.

Theory of mind: In psychology, 'Theory of mind' means that people have thoughts, feelings and emotions that affect their behaviour. The Theory of mind AI is a hypothetical AI that may identify, understand, retain and remember emotional output and behaviours. It can connect with human thoughts and interpret them better. Current AI research is involved in the creation of these machines but have had limited successes. Two popular examples often considered are Kismet and Sophia the humanoid but scope of their "mind" is severely limited and largely pre-programmed making them an elaborate mimicry of humans while functioning as Limited memory AIs.

Self-aware AI: The hypothetical final stage of AI research is called 'self-aware AI'. This sort of AI has evolved to replicate a human brain which can think for itself granting it an equitable degree of self-awareness. Hypothetically, it will possess independent intelligence, cognitive ability and the autonomy to make its own decisions. These machines will have the sharpness of human intelligence but without the tire and moodiness humans are subject to. While popular Science fiction has created many examples of such a machine, the humanization of these depictions in fiction always evaluates their utopian or dystopian consequences from the lens of morality and goodness, these being largely subjective cultural concepts.

⁸ "How a computer beat the best chess player in the world", *BBC News*, 2017, available at: <https://www.bbc.com/news/av/world-us-canada-39888639> (last visited on October 17, 2023).

Artificial Superintelligence (ASI): The development of Artificial Superintelligence will probably mark the pinnacle of AI research. Artificial General Intelligence (AGI) which is the ability to learn, perceive, understand and function completely like a human being will become more and more capable, exceeding the threshold of human intelligence. In addition to simple replication of human intelligence and capabilities, ASI will be exceedingly better at everything they do because of overwhelmingly greater memory, faster data processing and analysis, and decision-making capabilities. This development has catalysed speculative anxiety on part of humans which has been presented through themes of ‘man vs machine’, enslavement and extermination in popular fiction.⁹

III. Can Robots Have Rights?

The picture presented above illustrates the largely theoretical nature of AI. However, AI is a rapidly expanding field and stirs up many speculations. SpaceX and Tesla founder Elon Musk has commented that “*the pace of progress in artificial intelligence is incredibly fast. Unless you have direct exposure to groups like Deepmind, you have no idea how fast - it is growing at*”.¹⁰ There are others like Stephen Hawking¹¹ and Claude Simmons¹² who see the development of AI as the natural next step in evolution which will far exceed human capabilities. Whatever the nature of future AI may be, it is necessary to evolve a prospective legal framework that shall qualify these new-born entities into right-owning legal persons.¹³ Since, the subject of our consideration is largely theoretical, the assertion for their rights is also flimsy and subject to change.

⁹ Naveen Joshi, “7 Types of Artificial Intelligence”, *Forbes*, 2019, available at: <https://www.forbes.com/sites/cognitiveworld/2019/06/19/7-types-of-artificial-intelligence/?sh=5b2f262233ee> (last visited on October 17, 2023).

¹⁰ Eric Mack, “Elon Musk worries skynet is only five years off”, *CNET*, 2014, available at: <https://www.cnet.com/science/elon-musk-worries-skynet-is-only-five-years-off/> (last visited on October 17, 2023).

¹¹ Rory Cellan-Jones, “Stephen Hawking warns artificial intelligence could end mankind”, *BBC News*, 2014, available at: <https://www.bbc.com/news/technology-30290540> (last visited on October 17, 2023).

¹² Toby Walsh, “Rise of the machines: how computers could control our lives”, *The Conversation*, 2012, available at: <https://theconversation.com/rise-of-the-machines-how-computers-could-control-our-lives-5838> (last visited on October 17, 2023).

¹³ Liisa Janssens, "A Prospect Of The Future. How Autonomous Systems May Qualify As Legal Persons" in Emre Bayamlioglu, Irina Baraliuc, et. al. (eds.) *BEING PROFILED: COGITAS ERGO SUM: COGITAS ERGO SUM: 10 Years of Profiling the European Citizen* 116-121 (Amsterdam University Press, Amsterdam 2018).

The personhood debate¹⁴ consists of two philosophical viewpoints - Empirical Functionalism and Ontological Personalism. Empirical Functionalism defines personhood as “*a set of functions or abilities*” that may be seen as a list of functions that a human being does. This may include self-awareness, higher brain functions and the ability to relate to each other. In this understanding, the sum of the parts makes for whatever makes a human. Ontological Personhood however states that “*all human beings are human persons*” and that the basis of their personhood is natural. Their functionality is not the qualifier rather biological ‘humanness’ is. For the extension of personhood to machines, we see parallel arguments being made. Robots are right owning entities on the basis of two factors: the kind of work they perform and their resemblance in functioning and capabilities when compared to a human. Increasingly through automated machine learning, robots and machines have become excellent workers. The industrial working labour all across the globe have dreaded automation especially when worker efficiency is severely outmatched by pre-programmed robots. For the exchange of their services, a case can be made for the treatment of robots as legal entities and consequentially for the safeguarding of their rights.

Three contexts¹⁵ may be considered under which AIs may qualify for legal personhood¹⁶, these contexts do overlap in some ways but they provide a structure within which one may make a case for robots, these being:

AIs as Ultimately Valuable

AIs that are of ultimate value may be considered as passive legal persons much in the manner a legal status is conferred to infants or comatose individuals. Authors have often described legal personhood of AI as consisting in the ascription to them of ‘rights and duties of their own’. This means that if AIs are provided with rights and duties, they are legal persons. This is however a problematic conclusion much in the same way as we find for animals and slaves. Although animals and slaves have equal legal rights, they are widely and correctly classified as legal non-persons. As a result, we must distinguish between robots as subjects who may hold rights and not as their

¹⁴ Jennifer Nelson, "Human Personhood from a Kantian Perspective", 8 *Cedar Ethics: A Journal of Critical Thinking in Bioethics* 1 (2009).

¹⁵ Visa AJ. Kurki, *A theory of legal personhood* 178-187 (Oxford University Press, 2019).

¹⁶ Daniel N. Hoffman "Personhood and Rights." 19 *Polity* 74-96 (1986).

own legal persons. If these humanoid robots could no longer be owned by human beings and were given broad fundamental protections, they would most certainly qualify as legal persons but their current state they lack this sort of autonomy.

AIs as Active Legal Persons

The ability to act is crucial to being an active legal personality. On a continuum, we can comprehend potential methods to AI acts. On one hand, AIs are treated solely as tools. If we go to a website to download illegal material or buy stock, the computer we use is certainly not considered to have committed the criminal act or entered the contract. A computer is comparable to a pen used to sign a contract or a rifle used to rob a bank, for example.

Any institution which holds a legal status has rights because it has been recognized as a legal entity by law. The violation of a fundamental code of conduct will cost the offender a legal penalty. What is important in the case of machines and AI however, is to keep in mind that the institution *i.e.*, organisation of people as companies and corporations is the legal entity and not the machines/robots/AI itself. Therefore, if someone is found guilty of duplication/imitation of the patented software 'SIRI', Apple will trace the origin of the counterfeit and sue the developer¹⁷.

Because SIRI is a Reactive machine AI and Apple is a legally recognized corporation. Hence Apple, the company and not SIRI, the AI will act upon the case. Additionally, SIRI is a designed product subject to the subjectivities of the programmers creating it, the current law can mandate designers to create AIs that engage in a certain type of conduct to follow the ideal legal duty but these complications of legal responsibility would be hard to establish since programmers could simply refuse to tie the seemingly infinite potential to legal technicalities and sometimes, acting in breach of a contract may be economically the most efficient option.

¹⁷ Jack Purcher, "Apple Patents Reveal a Standalone version of Siri and a Goal of delivering a less Frustrating Experience with Siri", *Patently Apple*, Nov. 15, 2018 available at: <https://www.patentlyapple.com/patently-apple/2018/11/apple-patents-reveal-a-standalone-version-of-siri-and-a-goal-of-delivering-a-less-frustrating-experience-with-siri.html> (last visited on October 17, 2023)

Additionally, the limited autonomy provides its own set of complications. With cultural alienation and the commodification of everything a new generation of men are turning toward online pornography and sex robots¹⁸ to compensate for lack of social success. This emergent field of commerce has brought forth fundamental and ethical questions regarding the creation of a false image of human sexuality. While a part of the argument goes that formerly tabooed sexual fetishes such as zoophilia or paedophilia which are criminalized may be substituted by robot entities for gratification. Therapists too are considering the idea of prescribing machine alternatives to reduce sexual crimes on children and vulnerable groups.¹⁹ The ‘use’ of robot bodies for sexual processes will be complicated if suspended by a moral/legal framework because unlike human women, robots in their current stage of development are simply objects. Even if they are evolved into right owning entities, the process of consent and denial which is innate to sexual practice, would be extremely hard to administer due to the hierarchical ownership they are held by.

The autonomy dilemma has been made accentuated by the curious case of Sophia the humanoid, recently in the news. Sophia is a social humanoid robot developed by Hong Kong based company Hanson Robotics and activated on February 14, 2016. ‘She’ was programmed to depict facial expressions and hold a conversation based on the complex pre-programmed neural networks she’s working with. In October 2017, Sophia was given Saudi Arabian citizenship²⁰, and became the first robot to receive citizenship of any country. The legal autonomy of Sophia was never her own in this transaction. The legal owner Hanson Robotics transferred the legal rights to Saudi Arabia granting her the much-celebrated personhood. Since her acquisition, she has been used as an ambassador to Saudi investments being used as tourism campaigner & for advertisements. Had the need of citizenship been Sophia’s own requirement and these parties provided her with the same then the conversation would have been different but it was these parties that were involved in a commercial exchange while Sophia was just the product being transferred. The pretence of

¹⁸ N. Döring, M.R. Mohseni, and R. Walter, “Design, Use, and Effects of Sex Dolls and Sex Robots: Scoping Review” *22(7) Journal of Medical Internet Research* 174 (2020).

¹⁹ Racheal Revesz, “Paedophiles ‘could be prescribed child sex dolls’ to prevent real attacks, says therapist”, *The Independent*, Aug. 2, 2017, available at: <https://www.mtv.com.lb/news/729569> (last visited on October 17, 2023).

²⁰ Ryan Browne, “World’s first robot ‘citizen’ Sophia is calling for women’s rights in Saudi Arabia”, *CNBC*, 2017, available at: <https://www.cnbc.com/2017/12/05/hanson-robotics-ceo-sophia-the-robot-an-advocate-for-womens-rights.html> (last visited on October 17, 2023).

personhood under the veil of citizenship only to serve capitalist interests presents the commoditization of robot bodies & the lack of autonomous agency.

AIs as Commercial Actors

The final consideration of AI is that it makes robots into commercial actors. It has been largely stated so far that these entities fall victim to the ownership argument which identifies them as an owned object due to their limited autonomy. However, there are instances in the patent law that have granted AI their own limited personhood. These instances include grant of rights, namely patents and copyrights for inventions and creations made by AI. In the South African *Device for the Autonomous Bootstrapping of Unified Sentience (DABUS)* case, a landmark decision was taken when patent rights were granted to an AI system which had contributed to the creation of two new inventions marking for the first time such a grant to an AI by the South African IP office.²¹

Although, the status of inventor to DABUS was denied in EU and Australian IP offices. Closer home, in 2020, an AI called Robust Artificially intelligent Graphics and Art Visualizer (RAGHAV) was granted copyright for an artwork which combined the ‘Starry Night’ painting by Vincent Van Gogh and a photograph taken by its creator Ankit Sahni for which the Indian Copyright Office had recognized RAGHAV as a co-author while granting the copyright for the artwork. Section 2(d)(iii) of the Copyright Act, 1957 makes clear that anyone who is an artist will be regarded as an author. But section 2(d)(vi) makes it clear that the person who instructs a machine to produce an artistic work will be the author of the work. Despite the loophole, after a classified submission made to the Parliamentary Standing Committee on “*protecting AI-created work as well as AI itself*”, co-authorship was granted.

In America, chapter 202.02(b) of Compendium II of Copyright Office Practices provides that the author of the work has to be a human. Across the ocean, the European Patent Office rejected patents for AI on the premise that “an inventor actually needs to have performed the creative act of invention”. Their disqualification was substantiated by the argument that even though machines

²¹ AI Patents and Applications *available at*: <https://artificialinventor.com/patent-applications/> (last visited on January 1, 2023).

may mimic human intelligence through complex pattern recognition, the aspects of autonomy, personality and self-awareness are missing.²² Zhou Bo, a senior judge at the Supreme Court of China held that “AI has not yet developed to a level where it is truly free from human involvement in the generation of relevant products. Humans are still more or less involved in the use of AI applications. In the cases we have encountered in the courts, AI related generative products are in nature results of human intellectual activities, performed with the assistance of AI outcomes.”²³

While there are other cases such as the recognition of the music composing AI called Artificial Intelligence Virtual Artist (AIVA) as a composer by the French and Luxembourg’s Author’s rights society and the recognition of the co-authorship RAGHAV by the Canadian court, it can then be argued that these patents and copyrights being granted are not so much through the natural course of jurisdiction but exceptions to push technologically innovative boundaries and the legal personhood framework.²⁴

IV. AI Rights in India

India does not have explicit regulations for data protection however personal information is safeguarded under section 43A and section 72A of The Information Technology Act, 2000. Similar to the EU’s General Data Protection Regulation (GDPR), it provides a right to compensation for unauthorised disclosure of personal information. The right to privacy was deemed a fundamental right protected by the Indian Constitution in 2017 by the Supreme Court. In 2035, AI has the potential to increase the GDP by 957 billion US dollars, or around 15% of India’s present gross domestic product. In the years to come, AI will be able to affect everyone’s life in some way. NITI Aayog, the policy commission, launched a number of programmes on AI applications in 2018. The Ministry of Electronics and Information Technology established four committees to focus on and examine various AI ethical issues. Based on a proposed data protection statute, a Joint

²² European Union, “The ethics of artificial intelligence: Issues and initiatives” 26 (European Parliamentary Research Service, 2020) available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/634452/EPRS_STU\(2020\)634452_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/634452/EPRS_STU(2020)634452_EN.pdf) (last visited on October 17, 2023)

²³ Bo Zhou “Artificial Intelligence and Copyright Protection - Judicial Practice in Chinese Courts”, *World Intellectual Property Organisation*, (2020) available at: https://www.wipo.int/export/sites/www/about-ip/en/artificial_intelligence/conversation_ip_ai/pdf/ms_china_1_en.pdf (last visited on October 17, 2023).

²⁴ Sukanya Sarkar, “India recognises AI as co-author of copyrighted artwork”, *Managing IP*, 2021, available at: <https://www.managingip.com/article/2a5czmpwixyj23wyqct1c/exclusive-india-recognises-ai-as-co-author-of-copyrighted-artwork> (last visited on October 17, 2023).

Parliamentary Committee was debating the PDP Bill (Personal Data Protection Bill) 2019. The measure will be enacted into law once it has been approved by both chambers of Parliament. In India, the use of AI is progressing more quickly than the laws put in place to control it. With the help of AI technology, industries have started the process of upskilling their workforce. Cyril Amarchand Mangaldas is perhaps the first law firm in India to use AI, to analyse and adapt contracts and other legal documents. Former CJI SA Bobde too advocated for the use of AI in the judicial system, particularly in the area of docket management and decision-making. However, in developing nations like India, resistance to this new trend may prevent the regularisation of AI usage. There is also concern that AI could have negative effects, especially in an undeveloped country like India, where the majority of people are ignorant and living in poverty.²⁵

The key justification in favour of AI being acknowledged as an author is that denying it would prevent any of its inventions from being protected by copyright because they wouldn't be considered works and would therefore be ineligible for such protection. As a result, it will negate the goal of copyright legislation because no one will create an AI without protection. Similar arguments are made in the report of the parliamentary committee²⁶, although it is unclear how changing the law can increase revenue, reward and promote creativity, and lead to the creation of additional AI solutions. The creative process will be hindered by allowing AI authorship, according to critics. The ultimate goal of copyright law will be achieved if an AI programme is not acknowledged as an author of a work but the human creators are given copyright ownership as authors. This will incentivise the human AI creator to enhance the AI and further the advancement of the sciences and useful arts. However, if authorship rights are granted to AI without any means of enforcing them, copyright law requirements will be reduced, which will deter AI from producing new works. Therefore, a popular argument is that no action should be taken to amend the current copyright rules to confer AI copyright authoring rights since the parliamentary committee report does not provide a sufficient justification for doing so.

²⁵ Yashi Chowdhary, "Artificial Intelligence and Laws In India", *Legal Service India*, 2022, available at: <https://www.legalserviceindia.com/legal/article-8171-artificial-intelligence-and-laws-in-india.html> (last visited on October 17, 2023).

²⁶ Rajya Sabha, 161st Report on Review of the Intellectual Property Rights Regime in India, (July 2021).

V. Scientific Dimension

We have chosen to analyse Machine/robots/AI on the basis of three fundamental theories of Sigmund Freud on the Unconscious Mind, Roger Penrose on ‘Consciousness is not a computation’, and Kurt Gödel’s incompleteness theorem. The idea here is to analyse the cognitive abilities and human intelligence claimed by AI and test them through the metric of evaluation as held by the stated theoretical framework. According to Sigmund Freud, the human mind has structural differentiation for the conscious, the subconscious and the unconscious.²⁷ Fundamental assumption of the Freudian theory is that the conscious mind governs behavioural patterns and through psychoanalysis, Freud proposes that one can become more aware of the dormant unconscious mind. Freud talks about two vital components - Eros and Thanatos. He believes Eros controls all the biotic processes while Thanatos deals with life and death instincts.

Supplementing human consciousness with the argument of the Nobel prize winning physicist, Roger Penrose we can evaluate the idea further. Penrose talks about the three interrelated dimensions of morality, beauty and reality that in effect reflect the world of consciousness, the physical world and the platonic mathematical world respectively. Penrose seeks to understand the non-computable source of consciousness with the consideration of these three dimensions as the basis of his evaluation. Using quantum physics²⁸, he formulated the ‘Orchestrated objective reduction theory’²⁹ which is a biological philosophy of mind postulating that consciousness originates at the quantum level inside the neurons rather than the conventional view that it is a product of connections between neurons.

Because consciousness cannot be seen in isolation, all machines and robots work on the basis of algorithms which need to be considered. According to Kurt Gödel’s ‘incompleteness theorem’³⁰,

²⁷ Avinash De Sousa, "Freudian theory and consciousness: A conceptual analysis." 9 *Mens Sana Monographs* 210 (2011) available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3115290/> (last visited on October 17, 2023)

²⁸ S. Hameroff and R. Penrose, "Orchestrated reduction of quantum coherence in brain microtubules: A model for consciousness" 40 *Mathematics & Computers in Simulation* 453-480 (1996).

²⁹ S. Hameroff and R. Penrose, "Reply to criticism of the ‘Orch OR qubit’ – ‘Orchestrated objective 1996 reduction’ is scientifically justified." 11 *Physics of Life Review* 94-100 (2014).

³⁰ Panu Raatikainen, "Gödel’s Incompleteness Theorems", Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy* (2013) available at: <https://plato.stanford.edu/entries/goedel-incompleteness/> (last visited on October 17, 2023)

within any axiomatic mathematical system there are propositions that cannot be proved or disproved on the basis of the axioms within that system, such a system cannot be simultaneously complete and consistent. In other words, every logically operating device/system consists of either contradiction or statements that cannot be proven. This framework deconstructs the consciousness within a machine learning system. The idea that AI/Machines and robots can act like humans through a complex neural network³¹ seems like an elaborate mimicry and even if something may be built, the chances of logical fallacies will continue to linger.

VI. Analysis

From the genesis of machines to their training period, everything is performed by human actors hence, it would be very difficult to contest for autonomous agency for them. If all the machines have been manufactured by humans, it is certainly important to understand the inherent motivation behind them. Another argument hypothesises technology itself as the cause of social discrimination and isolation. Therefore, when societies all across cultures are already deeply divided along ethnic and communal lines, adding technology to the discussion of rights may further complicate the issue and force vulnerable human groups to the periphery. Machines that have been installed for customer services, production and surveillance prove themselves to be a source of mass replacement of the workforce. Identity politics and war has depicted that autonomy and sovereignty are a source of emancipation in political discourse and can only be realised by humans. Hence, a humanist argument may be made placing our rights to sovereignty over the prospective rights of machines.

The Idea of digital humanism or reducing them to humans *via* technomorphic processes is also not as viable as it seems. In order to reduce components of all the biotic processes to living processes and functions to mechanical functions, it is all possible to frame theoretical equivalence but difficult to implement. Machines can be human subjects and there will be a hierarchy which will channelize the Foucauldian power structure, the effect of power can be seen in the way machines

³¹ Giacomo Valle, "The Connection Between the Nervous System and Machines: Commentary" 21(11) *Journal of Medical Internet Research* 747 (2019).

will be manufactured and made to function.³² Furthermore, it is critical to talk about the emotional quotient of machines, if through technological advancements they are emotional or aware enough to comprehend feelings, then the very purpose of creating machines may be defeated. Suppose AI robots are deployed at military stations, their emotionality may cloud their judgement, disobey their order and push them to process suffering the same way humans being deployed suffer from PTSD do. The perception of anomalies will remove the AI from the algorithmic framework as soon as moral codes start to contradict causing changes in loyalty in the deployed robots.

There is a fundamental difference between human learning and machine learning, humans tend to learn from their experiences and despite receiving the same education children have different interpretations while the algorithmic machine learning for robots is bound to be more rigid and programmer bias. The monotony of algorithmic neural networks makes them nothing more than a materialised digital body. This materialised digital body additionally lacks the understanding of sexuality which is very innate to being human along with an understanding of death apart from a conceptual understanding of the same.³³ The framework of human rights is the evolution of feelings which constitute the common consciousness reminiscent in all human beings that enshrine ideas of equality, dignity, freedom and happiness which have been fought for to be available to all. Deprivation, humiliation and marginalisation are sentiments which cause the feeling of rebellion against oppression which is not possible for machines to transcribe in the current nature of their consciousness. If they were to emulate these sentiments, these ideas would have to be pre-programmed into their code and would only extend to the possibilities of the pre-programmed instructions.

VII. Conclusion

Disorder and the situations of chaos lead to order and stability but it is important to deconstruct the components of what gives stability. The history of Humankind is congested with struggles for rights because humans have an inherent tendency to resist oppression. The possession of autonomous agency to communicate and build interactions is a unique human characteristic. This

³² Michel Foucault, "The Subject and Power" 8 *Critical Inquiry* 777-95 (1982).

³³ Jeff Noonan, "The Debate on Immortality: Posthumanist Science vs. Critical Philosophy" 21(1) *The European Legacy* 38-51 (2016).

uniqueness makes them a real contender for rights. Machines can be accorded rights for the functions they perform with keeping ethical consideration but giving a status of legal personhood is still a distant dream that has the possibility to push the legitimate human claims for rights into the periphery. The postmodernist also challenges the human/culture dichotomy and proclaims that humans can never be seen in isolation from their bases of genesis. Since, Human mind with its consciousness, cognitive abilities, reflexes and creativity intact is a deeply layered instrument, the possibility of creating something reminiscent of it through complex computational algorithms is a far-fetched one.

One must also consider however that the goals of a prospective robot person in this discourse have also been identified by the extent of human imagination. The human-centrism from post-human entities³⁴ is necessitated to better evaluate the nature and extent of rights that can be provided to them. The advancements in AI research alone will elucidate some of the loopholes we currently struggle with. However, it is imperative to understand these things not just from a ‘human vs robot’ approach but also from a ‘human + robot’ approach³⁵. The aversion of legal personhood for robots have only clouded our judgement and stirred our collective anxieties but what is needed is a better understanding and readiness to cooperate with these future entities.

³⁴ Nicholas Gane, "Posthuman", *Theory, Culture & Society* 431-434 (2006).

³⁵ Sanjivini Raina "Artificial Intelligence through the Prism of Intellectual Property Laws", in Ahuja V.K & Vashishtha Archa (eds.), *Intellectual Property Rights: Contemporary Developments* 133-142 (Thomson Reuters, 2020).