



Long Article

## Vesting Legal Personhood in Artificially Intelligent Entities - An Anodyne for Many Prospective Legal Challenges

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**Abstract:** *The development of Artificial Intelligence (AI) is one of the most flabbergasting advancements of science and technology. The self-thinking hi-tech robots which were hitherto seen only in science fiction movies are turning out to be a reality. However, as the human interaction with these intelligent machines increases, it consequently gives rise to many legal issues. One such major issue is concerning who shall be held responsible for a liability arising from the wrongful actions of AI? Our current legal system seems to be either confused or misguided as it still follows the archaic principles in order to resolve such modern technical issues. Moreover, the upcoming future challenges are not only unimaginable but may even prove to be serious threat to mankind if not resorted in time. Therefore, the need of the hour is to prepare our legal regime for these forthcoming challenges. Attribution of legal personhood to artificial intelligence can be an effective measure to check all potential challenges arising due to AI in our society. This paper discusses the need for vesting legal personhood in AI in its different stages of evolution. Further the author has proposed the 'artificial human test' in order to vest humanly aspects in the 'to be simulated humans'. This work further highlights that how by merely vesting legal personhood in AI our current legal system will be capable enough to resolve any issue arising due to further technological development in the field of AI.*

**Keywords:** *Artificial Intelligence (AI), Artificial Narrow Intelligence (ANI), Artificial General Intelligence (AGI), Artificial Super Intelligence (ASI), Legal personhood.*

## I. Introduction

With the continued advancement of science and technology, Artificial intelligence (AI) is becoming a ubiquitous part of our society. Scientists round the globe are trying to develop the strong AI systems which would be autonomous and will have the capacity to think without any human intervention. Continued human interaction with these *to be* simulated human beings gives rise to some serious legal issues. One such major issue is relating to the attribution of legal personhood to AI powered robots. Even though, as of now, artificially intellectual robots cannot be found in the crowds on streets of the cities; the question of legal personhood of AI is quite interesting for global scientific community. This question is mostly theoretical today but it seems to the author that we will witness the movement of this issue to a practical sphere within the next decade. Legal personality is a jurisprudential concept which denotes various entities as persons, which may also include non-natural persons, in the eyes of law. Many non-natural entities have been given the status of legal persons as of now such as corporations, religious idols, international organizations, etc. The need for ascertaining legal personhood is primarily to crystallise the horizons of rights and obligations.<sup>1</sup> To be a legal person is to be the subject of rights and duties. To confer legal rights or to impose legal duties, therefore, is to confer legal personality.<sup>2</sup> However, a prompt distinction between attributing legal personhood to the aforesaid entities and AI is that the former usually lacks the ability to think. There is always the mind of some natural person behind any act which could make the entity liable, whereas AI *ipso facto* denotes the thinking ability of the machines themselves. Thus, in such a scenario it becomes highly complex to ascertain the liability of self-thinking machines. Unfortunately, contemporary jurisprudence is not well equipped to deal logically and consistently with this question and thus doesn't provide a convincing clarification. Robots are moving from science fiction sheets to science fact, with the ability to do things that we previously used to only imagine.<sup>3</sup> With an increase in the interaction of this technology with humans and when this technology would become an indispensable part of the human world, it will raise many legal issues.

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<sup>1</sup> S.J. Russell and P. Norvig, *Artificial Intelligence: A Modern Approach* (2<sup>nd</sup> edn. Pearson Education, 2003) 947

<sup>2</sup> J. C. Gray, *The Nature and Sources of the Law* (Columbia, New York, 1921) 27

<sup>3</sup> David Feil-Seifer and Maja Matariæ, *Human-Robot Interaction, Encyclopaedia of Complexity and System Science*. (Springer New York, 2009)

This work puts forward some methods to tackle these issues. It lays down a unitary theory to facilitate understanding of the existing principles of legal personality, which would lay down cogent argument that objectively and logically points towards the extension of legal personhood to the *simulated human beings*. This would strengthen the existing legal system against the challenges arising from further development of AI. Though it appears premature and probably inappropriate to introduce AI Personhood in the present situation, yet it is in fact an appropriate time to prepare our legal system to face and tackle the upcoming challenges.

## **II. Artificial Intelligence- An Overview**

Artificial Intelligence (AI) is a scientific concept thus defining it is not an easy task. One way to begin is to consider the types of problems that AI technology is often used to address. In that spirit, we might describe AI as using technology to automate tasks that ‘normally require human intelligence’.<sup>4</sup> This description of AI emphasizes that the technology is often focused upon automating specific types of tasks: those that are thought to involve intelligence when people perform them. AI is the simulation of human intelligence that is possessed by machines. Such machines are capable to perform human behavioural aspects to much extent. The ‘Google Voice’ in Android devices and ‘SIRI’ in iOS devices, ALEXA etc. are the most common examples of AI being connected to us in our day to day lives. In the present date, the basic attributes of A.I. includes Reasoning, Learning and Self-correction. However, at this point it must be noted that what we are experiencing right now is a very basic form of AI. Scientifically stating, AI can be subdivided into two categories: Artificial Narrow Intelligence (ANI) and Artificial General Intelligence (AGI).<sup>5</sup> ANI is the first level of AI that can perform only in one sphere. For example, there’s AI that can beat the world chess champion in chess, but that’s the only thing it does and nothing else. It’s functioning depends upon the codes used to program it in that sphere. AGI, on the other hand, is the AI that reaches and then passes the intelligence level of a human, meaning it has the ability to reason, plan, solve problems, think conceptually, learn quickly, comprehend complex ideas, and learn from experience. Above these both is the Artificial Super Intelligence

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<sup>4</sup> Stuart J. Russell & Peter Norvig, *Artificial Intelligence: A Modern Approach* (3<sup>rd</sup> edn., Prentice Hall, 2010) 1

<sup>5</sup> Linda S. Gottfredson, *Mainstream Science on Intelligence Gottfredson* (Ablex Publishing Corporation, 1997)

(ASI) that refers to an intellect that is much smarter than the best human brain in practically every field, including scientific creativity, general wisdom and social skills.<sup>6</sup>

Currently we are experiencing AI-ANI in many ways including the Google search suggestions, ALEXA, SIRI, Email spam filters etc. Due this narrow field of operation of AI in our lives so far, we have not come across any major law and AI conundrum. However serious legal issues may come forward with the increasing human-AI interactions and the continuous advancement in AI technology. As of now Strong AI or AGI is only aspirational.<sup>7</sup> Although Strong AI has long been a goal of research efforts, even the most 'state-of-the-art' AI technology does not meaningfully resemble AGI.<sup>8</sup> However we are not very far away of coming face to face with AGI and after that ASI which may be a creation of AGI only without any human intervention, maybe that's where the human civilization ends. In the present context it is a mere bunch of speculations the contingency of which depends on the level of scientific advancement. At present, the outputs of an artificially intelligent being are based on a predetermined algorithm and generate limited predictable outputs<sup>9</sup> and will remain predictable till humans can control the inputs. In such scenario, artificial intelligence doesn't attract law more than a calculator.

### III. Relevance of Legal Personhood

The concept of legal personhood is fundamental to the complete understanding of law. The term 'person' bears a special importance in context of the laws of a country. In most legal systems round the globe there is a distinction between natural and legal persons. Natural persons includes all and only humans, whereas legal persons can exclude some humans but include non-human entities that have been deemed as needing special status in the eyes of law.<sup>10</sup> While there is divergence in framing a precise definition of legal personhood, its vital element seems to be the ability to bear rights and duties.<sup>11</sup> Black's Law Dictionary defines a legal person as an

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<sup>6</sup> Nick Bostrom, 'How long before superintelligence?' (1998) IJFS 630

<sup>7</sup> Terence Mills, 'AI vs AGI: What's the Difference?' *Forbes* (17 September 2018), <<https://rb.gy/xlgont>> assessed 20 May 2020

<sup>8</sup> *Ibid.*

<sup>9</sup> H.L. Dreyfus, *What Computers Still Can't Do: A Critique of Artificial Intelligence* (MIT Press Cambridge 3rd ed. 1992) 8, 36, 37

<sup>10</sup> Bryant Smith, 'Legal Personality' (1928) 37 YALE L. J. 283,284

<sup>11</sup> J. C. Gray, *The Nature and Sources of the Law* (Columbia, New York, 1921)

entity 'given certain legal rights and duties of a human being; a being, real or imaginary, who for the purpose of legal reasoning is treated more or less as a human being.'<sup>12</sup> In the words of Salmond:<sup>13</sup>

*...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, and no being that is not so capable is a person even though he be a man.*

Salmond further explains that the extension of concept of personhood beyond human beings is one of the most remarkable accomplishments of the legal imagination in the contemporaneous times. In spite of the emphasis on rights and duties, legal personhood has been almost prevaricated with humanity.<sup>14</sup> The definition of legal personhood derives its principles from the philosophical theories. Therefore, there must be a methodology to bring down this philosophical concept to practical reality.<sup>15</sup> One such possible methodology is the entity-centric methodology that focuses to resolve what attributes an entity should possess in order to be given the status of a legal person. Moore postulates that for an entity to possess attribute of legal personhood it must be autonomous and rational, having an identity between moral and legal personality.<sup>16</sup> Legal personhood may occasionally be founded on arguments about moral status. This generally means that an entity possesses the ability to suffer or be able to reason about its own existence and moral responsibilities.<sup>17</sup> This implies some form of consciousness on the part of the entity. For instance, a corporation can suffer financially and otherwise, though not exactly like human beings. Further, a corporation is comprised of people who collectively can reason about the corporation's existence and its moral duties. This indicates the attribute of consciousness on the part of the corporation.

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<sup>12</sup> *Black's Law Dictionary* (9<sup>th</sup> edn. 2009) 791

<sup>13</sup> John Salmond, *Jurisprudence* (10<sup>th</sup> edn., Glanville L. Williams, 1947) 318

<sup>14</sup> Saru M. Matambanadzo, 'The Body, Incorporated' (2013) 87 TUL. L. REV. 457, 460

<sup>15</sup> M. Wolff, 'On the nature of Legal Person' (1938) 54 LQR 494

<sup>16</sup> M. Moore, *Placing Blame: A General Theory of Criminal Law* (Clarendon Press Oxford, 1997) 595, 636

<sup>17</sup> J. Bentham, *The Collected Works of Jeremy Bentham: An Introduction to the Principles of Morals and Legislation* (Oxford, 1789)

## IV. The Existing Legal Framework

Existing legal approaches treat AIs merely as tools. In the current context there are majorly two legal doctrines that govern the liability arising out of an AI driven machine. Thus, in order to evaluate the attribution of personhood to AI *beings*, it becomes imperative to analyse the existing legal regime. The two major doctrines governing the liability arising out of AI sponsored actions are as under:

### Strict Product Liability

The concept of strict product liability has evolved from the English law theory of strict liability evolved in the celebrated cases of *Rylands v. Fletcher*.<sup>18</sup> Strict Product Liability evolved for safeguarding the interests of consumers. It casts the liability on the manufacturer, seller, or lessor of goods, if any personal injury or property damage to consumers, users, and bystanders caused by the goods it manufactures, sells, or leased and also holds them strictly liable, regardless of intent or the exercise of reasonable care.<sup>19</sup> In the same vein a person injured by a product embedded with an AI system can hold the manufacturer of the system strictly liable. Thus, irrespective of whether the injury was the result of negligence of the manufacturer or not, he could be held liable for harms caused by defects in that product, under the principle of strict product liability.<sup>20</sup> However, strict product liability, generally, only governs the physical injuries caused by tangible products.<sup>21</sup> It becomes highly complex to determine the liability in cases of intangible injuries such a purely AI software that losses client's money. Now in these cases the manufacturer or the programmer cannot be held liable as he has not programmed the software in a way to cause the injury to the client. It lost the money only due to its own estimates and previous experiences. The law is mostly silent in such cases and thus leaves a huge loophole in the present system.

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<sup>18</sup> *Rylands v. Fletcher*, L.R. 3 H.L. 330

<sup>19</sup> *Greenman v. Yuba Power Products, Inc.* (1963) 59 Cal.2d 57

<sup>20</sup> American Law Institute, *Restatement (3rd) of Torts: Products Liability* (1998)

<sup>21</sup> V. R. Johnson, 'Strict Product liability and tortious liability' (2009) 66 W &LLR 523

## **Vicarious Liability**

Generally, an individual is liable for his own wrongful acts. However, in certain cases some other person may be held liable for the act of another, owing to a certain relationship existing between them. It is a doctrine under which one party takes legal accountability for the wrongful conduct of another.<sup>22</sup> This sort of liability is referred to as vicarious liability or imputed liability. In context of AI, vicarious liability can also arise. If an AI system commits a tortious act, it could lead to owner's liability as if he himself had committed that act. It would not be possible for the owner to evade liability by taking defence of lack of knowledge or intent.

However, with the development of the AGI and then ASI it would be highly irrelevant to hold the owner or the producer liable for the wrongs of a rational AI being. Thus, a serious consideration of the existing minute doctrines governing AI liability is much needed.

## **V. Artificial Intelligence and Law- International perspective**

Bearing in mind the above mentioned constrains, most countries have formulated the necessary legislative frameworks or advisory councils designed specifically to resolve the issue of regulating AI. In early 2015, a centre on AI and robotics was established by the United Nations Inter-regional Crime and Justice Research Institute (UNICRI) established to help focus on AI throughout the UN in a single agency.<sup>23</sup> In 2017 the Centre for AI and Robotics was established in Hague, the Netherlands to understand and address the prospective risks and benefits of AI and robotics from the perspective of crime and security through awareness-raising, education, exchange of information, and harmonization of stakeholders.<sup>24</sup> Since then onward, the AI revolution ran throughout the world. The legal framework governing various jurisdictions thus is imperative to take into consideration. While taking of advanced and hybrid technology the name of the US automatically comes forward. In the United States the legislators and regulator have majorly moved ahead in the field of AI to regulate autonomous or self-driven vehicles. In the United States, legislations have been passed by four states to treat self-driving cars as traditional

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<sup>22</sup> American Law Institute, *Restatement (3rd) of Agency* (2006)

<sup>23</sup> AI Policy – United Nations, Future of Life Institute <<https://futureoflife.org/ai-policy-united-nations/>> assessed 24 May 2020

<sup>24</sup> UNICRI Centre on Artificial Intelligence and Robotics, 'Artificial Intelligence and Robotics: A dive in Future contours' <[http://www.unicri.it/topics/ai\\_robotics/centre/](http://www.unicri.it/topics/ai_robotics/centre/)> assessed May 30, 2020

drivers.<sup>25</sup> The American government does not endeavour to consider the legal status of AI as an individual person rather focuses on the AI legal definition.<sup>26</sup> Akin to the US the United Kingdoms is also moving forward in the direction of regulating AI. In 2017, The United Kingdoms has constituted the AI Committee in the House of Lords to lay down the foundation of a legislative mechanism to govern AI as new subject of law.<sup>27</sup> Talking of the European Union, specific attention is given to the regulation of unmanned vehicles. The German Traffic Act imposes the accountability for managing an automated or semi-automated vehicle on the owners along with the partial involvement of the authorities. In Russia, the Grishin Law, 2015 strives in the field of regulating AI. It seeks to amend the provisions of the Civil Code of the Russian Federation, and regardless of the AI driven robot's autonomy, imposes all the responsibility on its operator, developer or manufacturer, and also includes issues pertaining to robot's representation in the courts, tribunals etc. Moreover, rules on creating and using robots and AI are also defined by a Model Convention on Robotics and AI. In Japan, The Strategic Council for AI Technology was established in April 2016 to fulfil the research and development goals and to prepare a roadmap for the industrialization of AI.<sup>28</sup> According to a news article, the Japanese government is working on drafting a comprehensive law on medical devices running on AI. The rule ultimately would set the responsibility for diagnosis with medical doctors along with the pre-determined safety standards for government approval.<sup>29</sup> Concerning the regulation of self-driven cars, the testing of self-driven cars has been allowed, provided that certain conditions are fulfilled. Along with that the government has deliberated changes to various laws to prepare for their utilization by 2020.<sup>30</sup> However due to the current COVID-19 scenario it seems to have been delayed by some time.

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<sup>25</sup> Thomas Halleck, 'Google Inc. Says Self-Driving Car Will Be Ready By 2020' (*International Business Times* 15 Jan. 2015) <<https://www.ibtimes.com/google-inc-says-self-driving-car-will-be-ready-2020-1784150>> accessed 12 May 2020

<sup>26</sup> *Ibid.*

<sup>27</sup> S. Shead, 'The House of Lords is going to carry out a public inquiry' *Business Insider* (2017) <<https://rb.gy/eaddy>> assessed 21 May 2020

<sup>28</sup> Strategic Council for AI Technology, 'Artificial Intelligence Technology Strategy' <<http://www.nedo.go.jp/content/100865202.pdf>> assessed 21 May 2020

<sup>29</sup> 医療に包括ルール政府、AI「医師」規に最終責任定へ [Comprehensive Rule for AI Healthcare, prescribe "Medical Doctor Ultimately Responsible"], (*NIKKEI*, 26 June 2018), <<https://translate.google.com/translate?hl=en&sl=ja&u=https://www.nikkei.com/article/DGXMZ032207330V20C18A6MM8000/&prev=search>> assessed 21 May 2020

<sup>30</sup> に自動係度運転る制大綱整備[Outline of Preparation of System Concerning Automatic Operation] Strategic Headquarters for the Promotion of an Advanced Information and Telecommunications Network Society (17 Apr. 2018), <[https://www.kantei.go.jp/jp/singi/it2/kettei/pdf/20180413/auto\\_drive.pdf](https://www.kantei.go.jp/jp/singi/it2/kettei/pdf/20180413/auto_drive.pdf)> assessed 29 May 2020

The Kingdom of Saudi Arabia does not seem to have an official AI strategy. However, Saudi's deep involvement in the development of sentiment-AI robot Sophia and the plans to build hi-tech smart-city industrial zones seems to be an evolution of a new era in the country.<sup>31</sup> In October 2017, Saudi Arabia became the first country in the world to grant Citizenship to a non-natural being- Sophia robot thereby glaring its advanced and widened mind-set in the legal dimensions of AI. According to a report published by the Brookings Institution, the Indian AI industry has seen a growing phase since 2012 onwards.<sup>32</sup> Currently India has no laws or government-issued guidelines to regulate AI. However, India is striving hard to excel in the field of AI and for that the think tank NITI Aayog has proposed various plans and policy frameworks.<sup>33</sup>

It can thus be concluded that almost all the countries around the globe are strategically moving ahead in the direction of providing a legal framework to regulate AI. However, none of the country has flourished completely in building a proper and comprehensive layout of the future technology that we yet have to confront which may lead to serious issues. Thus, it is pertinent to lay down a proper legal setup to avoid these challenges that may come forward with the development in science and technology.

## **VI. AI Must be granted Personhood**

In today's modern era, scientific and technical advancement cannot be hindered in any way. Thus, it seems to be quite natural that we are *ipso facto* going to turn our fictions and fantasies into reality. The self-thinking beings which were hitherto seen only in sci-fi movies may now be seen crowding the streets of the cities. In such a scenario it is not difficult to imagine if such beings would be used to commit wrongs of various kinds. Moreover, if we reached the advanced stage to ASI (Artificial Super Intelligence), it is also possible that these simulated humans would themselves think of committing offences or may even think of to end the human civilization. If the legal regime would not be prepared to tackle these upcoming challenges, we are going to see real difficulties in the times to come. One of the solutions to rigidify the legal regime towards

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<sup>31</sup> Saudi Press Agency, 'The Future Investment Initiative Will Drive Global Thinking on the Future of Technology, Robotics and Artificial Intelligence' (2 Oct. 2017) <<https://www.spa.gov.sa/viewstory.php?lang=en&newsid=1673447>> assessed 29 May 2020

<sup>32</sup> Shamika Ravi & Puneeth Nagaraj, 'Harnessing the Future of AI in India', *Brookings*, <<https://www.brookings.edu/research/harnessing-the-future-of-ai-in-india/>> assessed 29 May 2020

<sup>33</sup> *Ibid.*

the AI is to attribute legal personhood to AI powered entities. AI entities must be treated as legal persons so as to hold them responsible under the law for their own wrongs just like many other non-natural legal entities. Vesting legal personhood in AI entities would strengthen the existing legal regime to tackle the forthcoming challenges. For a better understanding it is pertinent to analyse both the present and prospective scenarios.

### **ANI as a Legal person**

As already pointed out, currently we are witnessing and experiencing artificial narrow intelligence (ANI) or the weak AI. If ANI is vested with legal personhood, much of the problems and difficulties of many developers, programmers and manufactures would be cured. Today one of the major concerns which pertinently worry the developers of AI is the liability arising from its actions. As already mentioned above, today's legal regime holds the programmer or the manufacturer of the AI accountable for the wrongs committed by it. Holding AI responsible for its own wrongs can relieve the developers and they could freely move ahead in the technical advancement. In the cases of wrongs committed by AI-ANI entities, it would not be justified to hold the innocent developers and manufacturers accountable for such actions. On 4 July 1981, the first case of robot homicide was reported in Japan. An engineer, named Kenji was carrying out certain maintenance work on a robot at a heavy industrial plant. Unfortunately, Kenji did not completely turn the robot off. When he entered into a restricted area of the manufacturing line, the robot detected him as an obstacle in the line and threw him on an adjacent machine using its powerful hydraulic arm consequently Kenji died instantaneously.<sup>34</sup> This incident was reported about forty years ago in Japan which has the largest robot workforce in the world. The labour officials presented the unfamiliarity of the workers and neglect of regulations governing the new machines by them as a cause of this accident. The company replaced the robot and certain other preventive steps were undertaken. Thus, the matter was closed labelling it as an unfortunate action. The incident illustrates the uncertainty of human interactions with artificial intelligence. Taking another example, what if an auto-pilot (AI entity) of a fighter jet ejects and thereby kills the pilot of the jet thinking it to be an obstruction in the mission as the pilot wanted

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<sup>34</sup> Paul S. Edwards, 'Killer robot: robot Kills factory worker (*The Guardian* 9 Dec. 1981) <<https://www.theguardian.com/theguardian/2014/dec/09/robot-kills-factory-worker>> assessed 16 May 2020

to withdraw the mission due to bad weather? In such cases holding the programmer responsible would not be justified as it was a bad catch by the auto-pilot and programmer did not programme it in the way to commit such a wrong. In such cases if AI, be treated as a legal entity, it could be held accountable and may be reprogrammed to rectify the erred algorithm.

### **AGI and ASI as Legal persons**

The aforesaid are the cases concerning the present-day situation. But the revolutionary era we are about to enter would change the whole world as we know it today. With the evolution of Artificial General Intelligence (AGI) and eventually Artificial Super Intelligence (ASI), the whole world will undergo a rapid change in almost all the spheres we could imagine. Think of it once, how do we humans treat someone whom we think as inferior to us? We either degrade it to the highest levels or we treat it as our slaves. At present, man is the most intelligent and rational being on the planet. It is this sense of rationality and intelligence that makes us superior to all other living beings. As a consequence, we either chain them as our pets, or we destroy their habitats for our development. If we humans, who are known for the attributes of humanity and emotions, can treat the inferior beings in such a manner then our fate is not hard to imagine if a superior artificial species comes to existence. Maybe we would be turned into their slaves or pets or we could even be eliminated from this planet justifying Darwin's principle of 'survival of the fittest'. Today we have in a sense enslaved the machines probably in future we would be turned into their slaves. But these are the aspirations of far future where AGI and ASI would reach their peaks. This harsh future can be changed if we function today by regulating AI.

Attributing legal personhood to ANI now, would automatically vest personhood in its future advancements i.e., AGI and then ASI. But it must be noted here that AGI or ASI would function in their own ability and would be responsive to the real life situation just like human beings. Thus, unlike ANI mere reprogramming could not be the solution even if the entity be held accountable for a wrong. AGI or ASI would *ipso facto* be the simulated humans; thus, their rights, obligations, and punishments must also be akin to that of humans.

## **The ‘Artificial Human Test’**

In order to determine whether the AI entity has acquired the capability of being regarded as a simulated human or not, the author proposes the ‘Artificial Human Test’. The author feels that three most important attributes of a human being are the attributes of Feeling, Suffering and Rationality. Feeling is a human instinct which is responsive to pains and pleasures. Generally stating, most of our actions are the resultants of our feelings. Most of the crimes and wrongs are also the consequences of our feelings. Aggression, sadness, passion, over-happiness are some of the major emotions responsible behind a wrongful act. Every wrongful act leads to an equivalent punishment. This is so because of another human instinct of suffering. This suffering can be of any kind or combination of many kinds. The author feels that the objective of punishments is to make the wrongdoer feel the same number of sufferings that he has caused to the victim. If one does not have the attribute of suffering, the whole structure of punishing the wrongdoer would collapse. And the last but not the least major human attribute is that of rationality. Rationality is the instinct that distinguishes man from the rest of the living beings. It is this sense of right and wrong; good and bad which make man stand out above all other species. Our sense of rationality is not the resultant of any algorithms or codes but of our moral and social values that we have possessed over the years living in the society.

As and when the AI entities would begin to possess all these three attributes, they would pass the artificial human test and could be treated as simulated human beings. When the AI entities could feel their own sentiments and the emotions of the others without any preprogramming, akin to that of human beings, then they could be labelled as machines possessing feelings. When these entities would begin to experience sufferings physical, moral or any other sufferings they could be labelled as possessing the ability to suffer and punishment could be inflicted upon them for any wrongful act. Further by developing the attribute of rationality, not by any data or algorithms but by experiencing the society.

Thus, by developing these attributes the AI entities could be without a doubt regarded as simulated human beings. Though they may be built of steel and silicon yet they would possess everything required to be labelled as a human. In such a situation it would not be logical to treat them any different from humans. Legally stating, they must be regarded as person in the eyes

of law and unlike ANI they must be subject to punishments for any wrongful act akin to that of humans.

Thus, author agrees that in the present-day context it is not scientifically proven that AI could even have emotions. As feelings and emotions in living beings are a product of our brain and hormones which may not be possible in machines taking into account the present-day development. However, even the whole concept of AI seemed to be illogical and impractical a few decades ago. If we take human body as a machine, we could feel that in fact we also function on algorithms and codes, though these are the natural algorithms that we have learned and acquired by living in this society. Our hormones behind our emotions are a form of electric currents that are triggered when we come across a particular situation. It is hard to imagine machines being empathetic but science is always about exploring the impossible. As of now this may seem to be purely aspirational but the pace of scientific development is rapidly increasing and the author feels it to be possible within a few decades from now.

## **VII. Advantages of attributing legal personhood to AI**

Preparing ourselves with these upcoming challenges is the only way out to save ourselves and our species. The first step in this regard must be in the shape of vesting legal personhood in AI entities. Such initiative would be an impetus for spurring technological revolutions across the globe as many developers who worry about the liability arising from an act of AI would now be relieved and may be able to focus in the prospective direction. Moreover, the rights and obligations of the AI entities could be defined in a systematic and scientific manner. If in future, man is able to develop AGI, it would be highly illogical to treat such AGI powered entities differently vis-à-vis humans merely because they are not made of flesh and blood. After all it is not AI only that could commit crimes. Man's evil mind today has not even spared children and animals forget about human like silicon bodies. More strongly, if AI is shown to have real consciousness, ability to suffer pain and autonomy, a majority of the people might feel morally obliged to grant the AI entities the same rights and obligations as we humans have. Though it is clear today that AI entities have not reached such level yet it would be completely unwise on our part to dismiss this possibility completely.

## VIII. Disadvantages of attributing Legal personhood to AI

Every coin has two faces. Apart from having some major advantages, attributing legal person also have some attached drawbacks. Firstly, it would be easier for the producers, manufactures and the programmers to escape their liabilities, arising out of an error which they were responsible for or an intentional wrong which was not merely an algorithmic error, by shifting it to the AI devices themselves. This would disincentivize investment in adequate testing before the AI device deployment. AI Personhood could in this way result in an unsafe situation wherever AI devices are deployed.<sup>35</sup> Secondly, having a legal status of a person means, *inter alia*, the ability to sue and get sued. However, it seems to be unimaginable to bring proceedings against AI or to hold it liable for a wrong. Where a corporation, though being a non-natural legal person, may employ counsels to represent themselves in suits, AIs do not (as of now) have the ability to argue their cases in the courts of law. They cannot appoint lawyers to represent their interests and are also not able to engage in meaningful settlements with the plaintiff. This makes the situation highly complex. Further it is not yet proven or seems logical that AI may possess empathetic abilities or may suffer pains and pleasures. Further the lack of clarity and predictability in the future advancement of AI make all the logical premises seem illogical and mere products of abstraction.

However, all these disadvantages majorly can be rectified by a proper legal setup. A strict legal regime can possibly eliminate most of the problems arising from attributing legal personhood and can lay down a red-carpet for welcoming a better future.

## IX. Conclusion

Scientific and technological innovation always gives unimaginable shocks and surprises to the mankind. One such huge advancement is in the form of artificial intelligence. However, with all flummoxing advancements come serious legal questions. One such question is that of attributing legal personhood to AI entities. The legal theory clearly lays down that any entity which possesses rationality and autonomy can be attributed legal personhood and there could be legal barriers in doing so. At present we are witnessing a weak AI system that can be managed and

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<sup>35</sup> J. J. Bryson, 'M. E. Diamantis and T. D. Grant' (2007) AI&L. 25, 273

regulated by mere changes here and there, in the existing legal regime. However, what is coming in future is not as simple as it seems in the science fiction movies. The development of AGI and ASI would introduce the mankind to serious legal challenges and to avoid those challenges it is necessary to vest legal personhood in AI right from the beginning before it is too late. The technological realm is continuously changing which requires the adaptive reforms in the present-day legal regime in order to find solutions to the upcoming serious legal issues. Today's era is the era of technology. Technology has begun to replace man from almost all the spheres of life and there is many more to see in the future. If and when AI develops as a sentient being, it would be our moral obligation to grant them equal status similar to ours. The strongest argument favouring extension of legal personhood to AI is that it would prepare the existing legal system for an unimaginable and illogical seeming technological change without making a cumbersome substantial change to it. This would also ensure that technical advancement is not divorced from the social horizon. It must not be forgotten that initially people used to be afraid of participating in the corporate realm fearing the huge liabilities that comes alongside. But as and when more and more safeguards were provided by corporate laws, more and more people started engaging themselves in the commercial activities. Similarly extending safeguards to the innocent developers and manufacturers could stimulate technical advancement and ultimately our society with progress. It may seem premature to grant legal personhood to AI but if given a deep thought it could be realized that in order to make way for a smoother future, it is the need of the hour to recognise AI entities as legal persons. The legal system has already began confronting challenges arising due to AI which are yet at a nascent stage, therefore, the author feels that there is a strong need to begin preparing for the forthcoming technological advancement and challenges attached to them. After all it is only up to us whether to use AI to turn this world to a utopia or to let AI turn it into a dystopia. A minute step in present may turn out to be a lifesaver in future.