Should Artificial Intelligence Be Recognised as a Legal Person? A Critical Analysis

Introduction

Artificial intelligence (AI) has rapidly evolved from a specialised technological tool into an increasingly autonomous decision-making system capable of performing tasks traditionally reserved for human beings. AI systems now diagnose diseases, execute financial transactions, drive autonomous vehicles, draft legal documents, and assist judges in legal research. As AI capabilities continue to expand, legal scholars have questioned whether existing legal frameworks are sufficient to regulate increasingly autonomous technologies.

One of the most controversial questions concerns whether advanced AI systems should be granted legal personality. Legal personality allows an entity to possess rights, duties, liabilities, and the ability to participate in legal relationships. Traditionally, only natural persons and legally recognised entities such as corporations have possessed legal personality. The growing autonomy of AI has prompted some commentators to argue that this concept should be expanded.

This essay argues that AI should not presently be recognised as a legal person. Although AI systems are capable of autonomous decision-making and increasingly sophisticated behaviour, they lack consciousness, moral agency, intentionality, and independent legal interests. Existing legal doctrines allocating responsibility to developers, manufacturers, owners, and users remain better suited to ensuring accountability. Rather than creating a new category of electronic personhood, legislators should modernise liability frameworks while preserving human responsibility.

Understanding Legal Personality

Legal personality refers to the capacity to hold legal rights and obligations. It enables an entity to own property, enter contracts, initiate legal proceedings, and bear legal liability.

Legal systems have historically recognised several categories of legal persons.

Natural persons acquire legal personality by virtue of being human beings.

Artificial persons, such as corporations, acquire legal personality through legislation. Corporate personality enables companies to exist independently from their shareholders.

The landmark decision in **Salomon v A Salomon & Co Ltd [1897] AC 22** established that a company possesses a separate legal identity distinct from its members. This legal fiction allows corporations to own assets, sue and be sued, and incur liabilities independently.

Importantly, corporate legal personality does not arise because corporations possess consciousness or morality. Instead, it exists because recognising separate personality serves practical economic and legal purposes.

Supporters of AI personhood frequently rely upon this analogy.

However, corporations remain subject to human control through directors, officers, and shareholders. AI systems, by contrast, are technological products lacking independent legal interests.

Arguments Supporting AI Legal Personality

Several arguments have been advanced in favour of recognising AI as a legal person.

First, increasingly autonomous AI systems make decisions without direct human instruction. Machine learning algorithms adapt their behaviour through experience, making outcomes difficult for developers to predict.

Autonomous vehicles provide a useful illustration. Self-driving cars continuously analyse environmental data and independently determine steering, braking, and acceleration decisions. Where accidents occur, identifying the responsible human actor may become increasingly difficult.

Some scholars argue that assigning legal personality to autonomous AI could simplify liability by treating the AI itself as the responsible legal entity.

Second, granting legal personality might encourage innovation.

Developers could better assess legal risks if AI systems possessed clearly defined legal responsibilities. Investors might also gain greater certainty regarding liability allocation.

Third, legal history demonstrates that personality has evolved over time.

Corporations, municipalities, charities, ships, and even certain natural features have been recognised as legal persons for practical reasons rather than because they possess human characteristics.

Accordingly, proponents argue that AI could represent another evolution in legal personality.

Finally, some policymakers have suggested the concept of "electronic personality."

In 2017, the European Parliament discussed the possibility that highly autonomous robots might eventually require a distinct legal status to facilitate liability allocation, although this proposal generated significant criticism and has not been adopted.

The Case Against AI Legal Personality

Despite these arguments, recognising AI as a legal person presents significant legal and philosophical difficulties.

The first concern involves moral agency.

Legal responsibility is closely connected to the ability to understand moral obligations, appreciate legal consequences, and intentionally choose between lawful and unlawful conduct.

Current AI systems possess none of these characteristics.

Machine learning algorithms optimise mathematical objectives rather than exercise moral judgment.

Even highly sophisticated language models generate outputs through statistical prediction rather than conscious reasoning.

Without moral agency, assigning legal responsibility becomes conceptually problematic.

Second, AI lacks independent interests.

Legal persons possess interests capable of legal protection.

Humans possess fundamental rights because they experience wellbeing, suffering, autonomy, and dignity.

Corporations possess commercial interests represented by human decision-makers.

AI possesses neither consciousness nor legally recognisable welfare.

Consequently, there exists no meaningful justification for granting AI independent legal rights.

Third, electronic personality may undermine accountability.

If AI itself becomes legally responsible, manufacturers or developers could attempt to avoid liability by attributing harmful conduct to autonomous software.

Victims could encounter significant practical difficulties recovering compensation from an AI system lacking meaningful assets.

Rather than strengthening accountability, electronic personality could weaken it.

Product Liability and Existing Legal Frameworks

Current legal principles already provide mechanisms for addressing AI-related harm.

Manufacturers may incur liability for defective products.

Software developers may face negligence claims where foreseeable programming failures cause injury.

Employers may bear vicarious liability for AI used during employment.

Contract law allocates responsibility among businesses deploying AI technologies.

These established principles have demonstrated considerable flexibility throughout previous technological revolutions.

For example, product liability law adapted to motor vehicles, pharmaceuticals, aviation, and medical devices without granting legal personality to those technologies.

There is little evidence that AI requires fundamentally different treatment.

Instead, legislative reform can clarify standards of care, mandatory testing, transparency obligations, and insurance requirements while preserving human responsibility.

Criminal Liability

The difficulties become even more apparent within criminal law.

Criminal liability generally requires both the prohibited conduct (*actus reus*) and a guilty mental state (*mens rea*).

Although AI systems may perform physical acts, they cannot presently form criminal intention, recklessness, or knowledge in the legal sense.

If an autonomous vehicle deliberately swerves because of flawed programming, the relevant inquiry concerns whether the manufacturer, programmer, operator, or owner acted negligently or recklessly.

Punishing the AI itself would achieve little.

Unlike human offenders, AI cannot experience imprisonment, deterrence, rehabilitation, or moral blameworthiness.

Criminal law therefore remains fundamentally centred upon human responsibility.

Ethical Considerations

Legal personality also raises broader ethical concerns.

Granting rights to AI may unintentionally dilute the concept of human rights.

Human rights derive from dignity, autonomy, equality, and intrinsic moral worth.

AI systems, regardless of sophistication, do not possess subjective experiences.

Extending comparable legal recognition risks confusing functional intelligence with moral status.

Furthermore, recognising AI as a legal person could encourage excessive reliance upon automated decision-making.

Governments and corporations might increasingly delegate socially significant decisions to systems possessing legal status despite lacking democratic legitimacy or moral accountability.

Such developments could weaken public trust in legal institutions.

Comparative Perspectives

Most jurisdictions continue to reject AI legal personality.

The European Union has instead focused on regulating AI through risk-based governance rather than electronic personhood.

The **EU Artificial Intelligence Act** classifies AI systems according to levels of risk and imposes obligations relating to transparency, safety, human oversight, and accountability.

Similarly, the United Kingdom has adopted a principles-based regulatory approach emphasising innovation alongside accountability.

The United States likewise regulates AI through existing legal doctrines supplemented by sector-specific guidance rather than recognising autonomous legal personality.

These developments suggest an emerging international consensus that legal reform should strengthen human accountability instead of replacing it.

Future Developments

Although AI should not currently receive legal personality, future technological developments may require renewed legal analysis.

If genuinely conscious artificial general intelligence were ever developed—a possibility that remains speculative—the legal debate would fundamentally change.

Questions concerning autonomy, consciousness, subjective experience, and moral status would require careful philosophical and legal examination.

However, existing AI technologies remain sophisticated computational systems rather than conscious agents.

Legal doctrine should therefore respond to present technological realities rather than speculative future possibilities.

Incremental legislative reform represents a more proportionate solution than creating an entirely new category of legal person.

Critical Evaluation

The attraction of AI legal personality lies primarily in administrative convenience.

Assigning liability directly to autonomous systems appears to simplify complex causal relationships.

However, convenience should not determine foundational constitutional concepts.

Legal personality performs important normative functions beyond liability allocation.

It reflects participation within the legal community.

Current AI systems remain tools created, trained, deployed, and monitored by human beings.

Even highly autonomous machine learning systems operate according to objectives established by human designers.

Responsibility should therefore continue to rest with those capable of understanding legal duties and exercising moral judgment.

Modern legal systems have repeatedly adapted to technological innovation without abandoning fundamental principles.

AI represents another significant technological challenge but not one requiring recognition of electronic personhood.

Conclusion

Artificial intelligence presents one of the most significant legal challenges of the twenty-first century. Increasing autonomy, machine learning, and complex decision-making undoubtedly require updated legal regulation.

Nevertheless, recognising AI as a legal person would be premature and potentially counterproductive.

Unlike corporations, AI possesses neither independent interests nor human representatives capable of exercising legal judgment. It lacks consciousness, moral agency, intentionality, and the capacity to understand legal obligations.

Existing legal principles—including negligence, product liability, contract law, and corporate responsibility—provide more effective mechanisms for ensuring

accountability. Legislators should therefore strengthen these frameworks through targeted reform rather than creating electronic personhood.

As AI technology continues to evolve, legal systems must remain flexible. However, until AI develops characteristics fundamentally different from those currently observed, legal responsibility should remain firmly attached to the human actors who design, deploy, own, and benefit from these technologies.

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