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Preliminary communication

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MICHIIHITO MATSUDA AND THE SPECIFIC STATUS FOR ROBOTS

ABSTRACT

Artificially intelligent (AI) systems do not possess consciousness, and it is currently impossible to program such a capability into them. They remain advanced tools operating under human-defined instructions. However, the increasing parallels between AI capabilities and certain aspects of human cognition have led to debates about granting robots a specific legal status: electronic personhood. If a humanoid robot like Michihito Matsuda could run for municipal elections in Tama (Tokyo), why not consider granting robots a form of legal personality? The European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics (2015/2103(INL)) proposed creating a specific legal status for sophisticated autonomous robots. This status would recognize them as electronic persons capable of assuming responsibility for damages they may cause, particularly in cases where they make autonomous decisions or interact with third parties independently. While this idea acknowledges the growing impact of AI systems, it also raises critical questions about agency, liability, and ethical boundaries. One way to approach these challenges is through historical analogies. For instance, in Roman law, the servus (slave), though lacking full legal personhood, could act on behalf of their owner, producing legal effects for the latter. Similarly, robots could be recognized as dependent agents—tools with a high degree of autonomy—without conferring upon them full independence or rights. This analogy illustrates a possible framework for assigning legal responsibility for the actions of autonomous systems while maintaining clear ethical and legal boundaries.

Keywords: *Artificially intelligent, personhood, autonomous robots, responsibility, servus.*

1. INTRODUCTION. LEGAL FRAMEWORK FOR AI REGULATION.

We are on the cusp of a digital revolution with the potential to boost productivity, global economic growth and incomes around the world. However, the same revolution also presents risk of displacing jobs and increasing inequality. The rapid

advancement of artificial intelligence has drawn global attention, sparking both optimism and concern while prompting critical discussions about its economic implications. Due to the complexity of AI's influence on economies, its overall impact remains challenging to forecast. However, one certainty is the need for well-crafted policies that enable us to harness AI's immense potential safely and responsibly for the greater good of humanity.

The objectives of this research paper are to analyse the existing international legal framework for the regulation of AI and its adaptability to a globalised environment, and to examine the ethical and legal challenges posed by the use of AI in the transnational arena, including issues of liability.

The European Commission has for years facilitated and intensified cooperation on artificial intelligence across the EU to boost its competitiveness and ensure trust based on EU values. Following the publication of the European Strategy on AI in 2018,¹ and the guidelines for trustworthy AI developed by the High Level Expert Group on Artificial Intelligence in 2019,² The Commission on AI 2020 published the White Paper, which set out a clear vision for AI in Europe, for an ecosystem of excellence and trust, laying the foundation for today's proposals. The public consultation on the White Paper was widely attended worldwide.³ The White Paper was accompanied by a "Report on the safety and liability implications of Artificial Intelligence, the Internet of Things and robotics",⁴ which concludes that there are a number of gaps in existing product safety legislation that need to be addressed. In the White Paper on Artificial Intelligence, the Commission committed itself to promoting the use of artificial intelligence and to addressing the risks associated with certain uses of artificial intelligence. The Commission has proposed a legal framework for artificial intelligence that aims to address the risks posed by certain uses of AI through a set of rules focused on respect for fundamental rights and safety. At the same time, it aims to ensure that people

¹ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions Artificial intelligence for Europe. Brussels, 25.4.2018, COM(2018) 237 final, {SWD(2018) 137 final}.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Building Trust in Human-Centric Artificial Intelligence (COM(2019)168).

³ White Paper On Artificial Intelligence - A European approach to excellence and trust. Brussels, 19.2.2020. COM (2020), 65 final.

⁴ Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Report on the safety and liability implications of Artificial Intelligence, the Internet of Things and robotics. Brussels, 19.2.2020, COM(2020) 64 final.

harmed by artificial intelligence systems enjoy the same level of protection as people harmed by other technologies.

In October 2020, the European Parliament will adopt an own-initiative legislative resolution based on Article 225 TFEU on civil liability for AI, calling on the Commission to propose legislation.⁵ And in 2021, to create the first EU legal framework for AI, what we will call the AI Act, the Regulation of the European Parliament and of the Council of 2021 laying down harmonised rules in the field of artificial intelligence (AI Act) and amending certain legislative acts of the Union, will be presented.⁶

On 28 September 2022, the Commission responded to the objectives of the White Paper and the request of the European Parliament with a proposal for an AI Liability Directive.⁷ The proposed AI Liability Directive aims to improve the functioning of the internal market by establishing harmonised rules on certain aspects of non-contractual civil liability for damage caused by AI systems. The proposal addresses specific evidentiary difficulties related to AI and ensures that legitimate claims are not hindered.

The EU Artificial Intelligence (AI) Act was published in the Official Journal of the European Union on July 12, 2024, as “Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence”.⁸

The European Union is setting a milestone event with its groundbreaking Regulation (EU) 2024/1689, the world’s first comprehensive legal framework for AI. Central to the EU’s Digital Strategy, this legislation aims to create a balanced

⁵ European Parliament resolution of 20 October 2020 with recommendations to the Commission on a civil liability regime for artificial intelligence (2020/2014(INL)).

⁶ Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union Legislative Acts {SEC(2021) 167 final} - {SWD(2021) 84 final} - {SWD(2021) 85 final}. Brussels, 21.4.2021, COM(2021) 206 final.

⁷ Proposal for a Directive of the European Parliament and of the Council on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive) COM (2022), 496 final. 2022/0303 (COD). Proposal for a Directive of the European Parliament and of the Council on liability for defective products. Brussels, 28.9.2022. COM (2022), 495 final. 2022/0302 (COD).

⁸ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

environment for the development and use of AI, ensuring significant socio-economic benefits while protecting fundamental rights and security.

The Regulation is a bold attempt to regulate artificial intelligence and its applications, reflecting the desire to harness its potential benefits, such as improvements in healthcare, transport safety, manufacturing efficiency and sustainable energy solutions, while addressing the risks and challenges it poses. It creates a risk-based approach and classifies AI systems according to the level of risk they pose, with different levels of regulation for each category, prioritising safety, transparency, traceability and environmental sustainability.

Together with the Identification of Unacceptable Risks, the LIA identifies AI practices considered to pose “unacceptable risk” and proposes their prohibition, such as cognitive manipulation of vulnerable groups or social scoring systems by governments. For AI systems considered “high risk”, it proposes strict requirements, especially in critical areas such as product safety, law enforcement and public services. In regulating generative and limited-risk AI, the law calls for transparency and accountability standards for generative AI systems, as well as minimum requirements for limited-risk systems to ensure user awareness and informed decision-making. While the AI Act is an important step, there are challenges to its implementation, such as ensuring compliance and adapting to technological advances. However, it represents a commitment to the ethical development of AI and the protection of society from its potential risks.

The law has two clear objectives: to ensure that artificial intelligence systems used in the European Union and placed on the European market are safe and respect citizens’ rights, and to stimulate investment and innovation in AI in Europe. The regulation should be implemented two years after its entry into force, in 2026. Notably, this is the world’s first legislative proposal on artificial intelligence, so it may establish itself as a global benchmark for the regulation of AI in other jurisdictions. The law will regulate AI based on its risks. The higher the risk, the stricter the rules.

It also clarifies that the Regulation does not apply to areas outside the scope of EU law and does not affect Member States’ competences in the field of national security. It does not apply to systems used exclusively for military or defence purposes, nor to systems used for research and innovation purposes. It guarantees the protection of fundamental rights and provides for the assessment of the impact of any new AI system on fundamental rights before it is placed on the market. In addition, the basic models, understood as large-scale systems capable of performing different tasks (generation of video, text, images, etc.), will have to comply with more specific transparency obligations. Furthermore, the obligation

of the users of an emotion recognition system to inform natural persons to whom such a system is exposed is highlighted.

Together with AI Acta, on 8 December 2024, the new Product Liability Directive comes into force. The new Product Liability Directive updates and adapts the EU's liability rules for new technologies, ensuring better protection for victims and greater legal certainty for economic operators.⁹

In addition to above regulation, one of the most interest questions that AI proposes is the creation of the legal status for robots. In Europe, in recent years we can find references to a possible subjectivity, or more specifically a legal personality for AI-equipped robots. Since the Robolaw Report of 2016, which looks for a possible solution to the liability for damages caused by autonomous robots.¹⁰

2. MICHIIHITO MATSUDA THE ROBOT

Michihito Matsuda, an AI candidate, ran for mayor in Tama City, a part of Tokyo, Japan. The AI candidate finished in third place in the mayoral election, held on April 18, 2018, after garnering 4,000 votes. As part of the campaign, an android robot with female features named Michihito Matsuda was introduced, promising fair opportunities for all and running under the slogan "Artificial Intelligence will change Tama City". This unconventional candidacy sparked debates about the potential role of AI in governance. According to Michihito's campaign, the algorithm, through machine learning, could eliminate human emotional weaknesses—such as poor political decisions, corruption, and nepotism—by providing an objective analysis of citizens' opinions, expectations, and preferences. However, while the robot itself was the face of the campaign, it was important to note that it did not act independently. Instead, human organizers played a critical role behind the scenes. Michihito Matsuda had to comply with the requirements of electoral law just like any other candidate. Nevertheless, the AI was merely a representative, with its campaign orchestrated by Matsumoto, Vice President of SoftBank, and Norio Murakami, former representative of Google Japan. This raises the question: To what extent was this a true AI-driven candidacy rather than a symbolic experiment?¹¹

⁹ Directive (EU) 2024/2853 of the European Parliament and of the Council of 23 October 2024 on liability for defective products and repealing Council Directive 85/374/EEC.

¹⁰ Palmerini, E.; Azzarri, F.; Battaglia, F., *Guidelines on Regulating Robotics*, no. 6.2, 2014.

¹¹ Aguirre, J.F., *La digitalización electoral. Aplicaciones algorítmicas en el dominio*, IEEPC Nueva León, 2023, p. 175; Cortina, A., *Ética de la inteligencia artificial*, Anales de la Real Academia de Ciencias Morales y Políticas, no. 96, 2019, p. 380.

This situation introduces significant ethical dilemmas. It is one thing for an AI system to operate autonomously, and quite another for humans to supervise it while shaping its decisions. With AI's rapid advancements, society must ask whether we are using these systems as tools to assist decision-making or if we are allowing them to replace human leadership altogether. Furthermore, the blurred distinction between human and machine decision-making presents complex challenges in determining accountability and responsibility in governance.

Beyond political participation, the case of Michihito Matsuda also brings attention to broader legal and philosophical debates. Robots like this one exist in a grey area between subject and object, challenging our traditional notions of personhood. While Michihito has not been recognized as a legal person, its existence raises discussions about whether advanced AI could one day be granted legal status. Yet, this notion remains highly controversial. Many argue that legal personhood should remain exclusive to humans and certain organizations, fearing the consequences of attributing rights and responsibilities to non-human entities.

Given these premises, several fundamental questions arise: How do humans perceive cybernetic entities, and what are the implications of these perceptions? Research in human-robot interaction suggests that people neither see humanoid robots as simple objects nor fully accept them as living beings. Instead, they tend to attribute mental states to robots, making interactions more complex than they would be with inanimate tools. This raises ethical concerns about how robots should be designed and integrated into society to prevent unintended social consequences, such as reinforcing harmful biases or altering human behavior in undesirable ways.

In summary, treating robots as social agents and becoming overly dependent on AI introduces significant ethical and societal challenges. These issues demand a careful reflection on how we wish to interact with technology and how it, in turn, shapes our morality and humanity. As human-like artifacts transition from fiction to reality, the legal and ethical implications become urgent matters of discussion. Acknowledging these concerns, the European Parliament has urged the European Commission to develop legislation addressing AI-related challenges—a prudent and timely initiative.¹²

Ultimately, it is necessary to determine the legal and ethical status of these intelligent agents.¹³ Should they be considered a new category of entities, distinct

¹² Bryson J. J., *Of, For, and By the People: The Legal Lacuna of Synthetic Persons*, Artificial Intelligence and Law, volume 273, 2017, p. 278 – 79.

¹³ Calo, R., *Robotics and the Lessons of Cyberlaw*, California Law Review, vol. 103, June 2015, p. 546.

from both humans and traditional machines? As society grapples with this evolving relationship with AI, understanding how we value and classify these cybernetic entities will be crucial in shaping the future of human-robot coexistence. Recognizing that AI should remain at the service of society, the EU's High-Level Expert Group has introduced Ethical Guidelines for Trustworthy Artificial Intelligence, emphasizing the need for AI to enhance human welfare and freedom rather than undermine it.¹⁴

3. THE CREATION OF A SPECIFIC LEGAL STATUS FOR ROBOTS

3.1. The European Union perspective

The use of robots and complex AI systems today challenges the rights of personalities and raises questions about the status of these electronic agents, whether they are subjects of rights and obligations and whether we should grant them a personality. European Parliament resolution of 16 February 2017, suggests that robots should be endowed with electronic personalities.¹⁵ Paragraph (f) of its Recommendation 59 is interesting, suggesting that “*creating a specific legal status for robots in the long run, so that at least the most sophisticated autonomous robots could be established as having the status of electronic persons responsible for making good any damage they may cause, and possibly applying electronic personality to cases where robots make autonomous decisions or otherwise interact with third parties independently.*”

While it is true that the possibility of the future development of electronic personality for robots is first raised in this 2017 Resolution, the subsequent evolution of this Proposal has been so scarce that it has been forgotten. We find hardly any mention of it in subsequent European Proposals to date. From this scant development of the electronic personality of robots, we can deduce that this idea has been superseded. This possibility of creating an electronic personality for robots has been developed from a doctrinal point of view. As a reference, the AI Regulation 2024 says nothing about electronic personality, as does the Parliament's Resolution of 3 March 2022 on AI in the Digital Age, the Resolution on European industrial policy on AI and robotics of 12 February 2019, the 2020 White Paper on AI and a series of EU reports, communications and opinions

¹⁴ European Commission, High-level expert group on Artificial Intelligence, Ethics guidelines for trustworthy AI, 2019.

¹⁵ European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics (2015/2103(INL)).

mentioned in the previous point, all of which avoid talking about electronic personality.

Although the above Resolutions are silent, we find some European Texts that have spoken out against cyber personality. Firstly, on 31 May 2017, the EESC¹⁶ issued an opinion stating that it was against the introduction of any form of electronic personality for robots or AIs, because it would undermine the preventive remedial effects of liability legislation. This position is developed against the recommendations of the Resolution of 16 February 2017, on providing electronic personalities to attribute liability for damages to the robot: *“There is a lot of discussion regarding the issue of who can be held liable when a AI system causes damage, particularly if the AI system is self-teaching and continues to learn after entering into use. The European Parliament has drawn up recommendations for civil law on robotics, including a proposal to explore an “e-personality” for robots so that they can incur civil liability for any damage they cause. The EESC is opposed to any form of legal status for robots or AI (systems), as this entails an unacceptable risk of moral hazard. Liability law is based on a preventive, behaviour-correcting function, which may disappear as soon as the maker no longer bears the liability risk since this is transferred to the robot (or the AI system). There is also a risk of inappropriate use and abuse of this kind of legal status. The comparison with the limited liability of companies is misplaced, because in that case a natural person is always ultimately responsible. In this regard, it should be examined to what extent the current national and EU laws, rules and jurisprudence in the area of (product and risk) liability and own risk provide an adequate answer to this question and, failing that, what kind of legal solutions can be put forward.”*

On 2020 Committee on Legal Affairs presents a Report¹⁷ in which Explanatory statement explains how electronic personality cannot be raised, *“Even though AI-systems are indeed posing new legal challenges to our existing liability regime, they are materially in many cases not so different to other technologies, which sometimes are based on even more sophisticated software. Modern AI-systems regularly function rather trivial and are far away from conscious robots we know from Sci-Fi movies. Any discussion about giving AI-systems legal personality is therefore obsolete. Choosing a sensible approach to address the legal challenges posed by new AI-systems means that we refrain from major changes to our liability framework. If a person suffered harm caused by a defective AI-system, the Product*

¹⁶ Opinion of the European Economic and Social Committee on “Artificial intelligence — The consequences of artificial intelligence on the (digital) single market, production, consumption, employment and society” (own-initiative opinion) (2017/C 288/01).

¹⁷ Report with recommendations to the Commission on a civil liability regime for artificial intelligence (2020/2014(INL)) Committee on Legal Affairs, 5 October 2020, p. 36.

Liability Directive (PLD) should remain the legal means to seek compensation from the producer. If the harm was caused by an interfering third person, the existing fault-based liability system in the Member States offer (in most cases) a sufficient level of protection. In line with better regulation principles of the Union, any necessary legislative adjustments with regard to producers and interfering third persons should be discussed in these respective legal frameworks.”

The European Parliament Resolution of 20 October 2020, with recommendations to the Commission on a civil liability regime for Artificial Intelligence, in its sixth preamble, considers that it should be made clear that AI systems have no legal personality or human conscience, and that their function is to serve humanity. In other words, this Resolution reiterates that it is not necessary to attribute an electronic personality to robots or AI systems.

As we have seen, since the Resolution of 16 February 2017, the possibility of creating an electronic personality for robots is now obsolete, since the rest of the subsequent Resolutions and Proposals of the European Union have not expressed any opinion on this personality, and the few that have expressed an opinion have flatly denied this possibility, as we have just seen. However, outside the European institutions, it has been the doctrine that has insisted on developing this postulation.

3.2. Why attribute an electronic personality to robots?

Since the idea of the electronic personality was presented in 2017, the industrial development of AI systems has been exponential. And today, as an integrated element in society, it has surpassed the triviality with which it was considered by the 2020 Report, so why not think about the possibility of attributing an electronic status for robots. Attributing to them an electronic personality of their own would enable them to be holders of their own rights and obligations.¹⁸ But we must start from the differentiation between entities equipped with Artificial Intelligence systems that function autonomously to which we could attribute legal personality and human beings.

Although the history of law demonstrates a clear division between persons and objects, Artificial Intelligence systems cannot be categorised, the fact of recognising legal personality to other realities that are not human implies that this

¹⁸ Solar, J. I., *Dimensiones éticas y jurídicas de la Inteligencia Artificial en el marco del Estado de Derecho*, Cuadernos de la Cátedra de Democracia y Derechos Humanos, Universidad de Alcalá, Alcalá de Henares 2020, p. 180.

faculty is not exclusive to humans. There is no theory of personhood in law that determines which realities deserve to be imbued with the legal institution of personhood and which do not. Thus cognitivists approximate human intelligence to AI by calling human beings “biological machines”, and reducing the concepts of reasoning, will and interest to a simple handling of information.¹⁹

Many authors support the thesis of robotic personality in order to recognise the authorship of cybernetic works in intelligent systems. This necessitates a humanisation of robotic entities, which, to be able to act in traffic, must have a limited capacity to act. This does not entail the attribution of personality; rather, it involves the recognition of a degree of subjectivity that enables the establishment of a legal framework tailored to their distinct characteristics.²⁰ The introduction of artificial intelligence systems positions us at a nexus between objects and things. Robots seem different to us, more like living agents, as a new ontological category, located between object and agent, they have a social valence.²¹ These categories are distinct but mutually reinforcing, although it is true that people do not tend to consider humanoid robots as living beings, neither do they understand them to be objects. This new category of legal subject, halfway between person and object, is partially qualified and its assignment incomplete, contextual and unstable, insofar as citizens may treat the robot as a person for some purposes and as an object for others.²² Furthermore, the social impact of robotics is emphasised, as robots are seen as social agents that generate concern for people because of their impact on society. By focusing on a situation where the physical entity is present, humans tend to empathise and consider it similar to them.²³ However, there are authors who consider that attributing legal status to theft is the phenomenon of artificial empathy, which leads us to believe that the robot is endowed with human behaviour or emotions. At the current stage of development of robotics, the desire to attribute legal personality to a humanoid robot is tantamount to falling victim to this artificial empathy, the desire to attribute legal personality to a robot is based on a limited vision of the concept of robot, which is understood as a humanoid robot. The form is the result of the intended function, and if the builders give robots a human form, it is in order to provoke in the user a feeling of empathy, which will lead to acceptance.²⁴

¹⁹ Ortego, M., *La Inteligencia Artificial en la Justicia: Asistentes IA Judiciales y Jueces IA*, Tirant lo Blanch, Valencia, 2022, p. 124.

²⁰ Ortego, M., *El concepto de autor en la era de los robots*, en Anuario de propiedad intelectual, Reus Madrid, 2019. Tamayo, *op. cit.* note 18, p. 220.

²¹ Calo, *op. cit.*, note 13, p. 512.

²² Calo, R., *Robots as legal metaphors*, Harvard Journal of Law and Technology, no. 30, 2016, p. 237.

²³ Calo, *Robotics...* *op. cit.*, note, 13, p. 549.

²⁴ Nevejans, N., *Traité de Droit et d'Éthique de la Robotique civile*, LEH Éditions, Burdeos, 2017, p. 79.

The introduction of e-personality is largely dismissed in academic literature. Most authors focus in particular on the legal challenge posed by the liability of AI systems and security. This position is based on the implementation of mandatory minimum standards that strike the necessary balance between facilitating the technological development of robotics and protecting the values that are essential for human beings.²⁵

However, some authors consider the creation of a specific category, such as the electronic personality of robots, to be a matter of convenience. Robots are capable of performing actions subject to rights and obligations, just like human beings. Just as human beings have relationships with one another, the legal world would also have relationships between people and robots.²⁶ In this scenario, the robot would be subject to rights and obligations. While denying the subjectivity of the machine due to its lack of autonomy, it is nevertheless possible to methodologically exclude the possibility of attributing legal personality to it when this specific technical solution is considered preferable in relation to a particular class of applications in a specific context of use.²⁷

The law is struggling to place robotics in a new category, as the boundary between object and subject is unclear, and, very broadly speaking, the law tends to assume a dichotomy between individuals and tools.²⁸ Creating a new category of legal subject, halfway between person and object, is possible. Electronic personality as a capacity to be a holder of legal relations is an option for attributing rights to robotic systems, without the need to create a category of subject between object and person. This idea is based on the distinction between person and thing, but when this possibility of the legal personality of the intelligent system comes into play, we find ourselves halfway between the two possibilities. Giving rights and obligations to intelligent machines may seem strange, but the artificial or fictitious configuration of personality is not new, as we have seen for legal persons.²⁹

The increasing humanisation of robots and AI systems may give rise to the view that the exclusivity of human personhood is diminishing. This prompts a crucial argument against the recognition of a robotic personality, an argument founded on

²⁵ Monterroso, E.; Muñoz, A., *Inteligencia Artificial y riesgos cibernéticos. Responsabilidades y aseguramientos*, Tirant lo Blanch, Valencia, 2019, p.76.

²⁶ Bertolini, A., *Robots as Products: The Case for a Realistic Analysis of Robotic Applications and Liability Rules*, Law, Innovation and Technology, 2013, p. 214.

²⁷ Biasi, M., *Diritto del Lavoro e Intelligenza Artificiale*, Giuffrè, 2024, p. 55.

²⁸ Calo, *Robotics ... op. cit.*, note 13, p. 513.

²⁹ Santos, M^a J., *Regulación legal de la robótica y la Inteligencia Artificial: retos de futuro*, Law Review of the University of León, no. 4, 2017, p. 43; Barrio, A., *Hacia una personalidad electrónica para los robots*. *Revista de Derecho Privado*, Revista de derecho privado, 2018, p. 68.

the concept of the dignity of the person. The notion of recognizing an electronic personality in systems implies an equating with the human being, a recognition that non-living entities have the capacity to cause harm. This erroneous equating of personalities can lead to their denaturalisation, resulting in the loss of human control over the consequences of robots' actions.³⁰

Proponents of electronic personality seek to provide legal certainty for users of intelligent systems, ensuring adequate protection for both robots and their users or third parties.³¹ The need to grant electronic personality to robots raises the possibility of considering them as moral agents, which in turn raises concerns about legal security in the use of intelligent systems, ensuring adequate security for robots and artificial intelligence systems is a major concern in robotics. Attributing electronic personality to these agents means that the legal system can recognise a subject as having rights and obligations. This recognition is useful for them to assume the responsibility that may derive from their actions. The electronic personality of robots and systems that use Artificial Intelligence, from the perspective of liability, must be accompanied by the generation of a patrimony that can guarantee the damage caused by them. This legal personality can be understood as the same personality that is granted to companies.³²

The legal personality is a solution to the problem of liability for personal or property damage that may be caused by any type of robots. Electronic personality may be a proposal worthy of consideration when it comes to solving the problem of liability caused by damage derived from the actions of robots,³³ but in order to attribute electronic responsibility it is necessary to identify the robots themselves with an identifier and create a register.

This autonomy of robots makes them subject to total human will, like a slave. This submission to human will does not prevent the robot's liability, but it should be accompanied by the taking out of insurance: the robot would be liable with its own capital, as if it were a company, to compensate potential victims.³⁴

³⁰ Gomez-Riesgo, J. M., *Candente debate sobre responsabilidad jurídica del robot*, Conferencia dictada en el colegio notarial de Madrid, 2022.

³¹ Santos, *op. cit.*, note 29, p. 33.

³² Santos, *op. cit.* note 29, p. 43.

³³ Llano, F.; Garrido, J., *Inteligencia Artificial y derecho. El jurista ante los restos de la era digital*, Aranzadi, 2021, p. 222. Barrio, *op. cit.* note 29, p. 84

³⁴ Ercilla, J., *La Inteligencia Artificial en la Justicia: Asistentes IA Judiciales y Jueces IA*, Revista Aranzadi de Derecho y Nuevas Tecnologías, 2020, p. 52.

This identification and registration should be accompanied by the creation and financing of its own insurance, as is the case in motor vehicle legislation, and a compensation fund in the event of an accident.

3.3. The limited electronic personality

Some authors understand that when we talk about the personality of robots, we find that within the most favourable positions to electronic personality, there are several postulations. One of these, which understands that it is a more limited personality and with opportunistic purposes, a side that considers that it is an attribution of specific legal personality, and it is not a question of creating a general electronic personality, so that all robots can be total subjects of rights in a general way, “the limited personalisation serves so that the compensation for the damage caused can be made effective”.³⁵ This limited and opportunistic position is the one we have to hold, for the basis for a robotic personality, whatever it may be, cannot be based on Artificial Intelligence itself, but on mere motives of opportunity and necessity. The fundamental basis for constructing an electronic personality of robots is to understand it from this opportunistic position, not as a personality similar to that of human beings, but as a more limited personality, which proposes to create a Personality restricted to the assumptions of liability generated by them, with indemnities and damages being objectively attributed to the robots.³⁶ The slave, although considered a human being, has no personality and his conduct could produce legal effects, but not for him, but for his owner. Intelligent systems are digital slaves, albeit slaves with superhuman capacities.³⁷

Some authors have suggested recognising the limited personality of the cyber agent for the use for negotiation purposes, invoking the institution of the *peculium* born during the legal experience of Roman law. The legal acts performed by the slave fell directly within the legal sphere of the *dominus*, who retained the responsibility, a responsibility limited only to the *peculium* was foreseen. However, this institution which provided for the attribution of capacity to act to the *servus* will be analysed in the following point.³⁸

³⁵ Herrera, R., *Aspectos legales de la Inteligencia Artificial, protección de Datos y responsabilidad civil*, Dykinson, Madrid, 2022., p. 35; Díaz, S. *Robots y responsabilidad civil*, Reus, Madrid, 2018, p. 77.

³⁶ Rogel, C., *Los robots y el derecho*, Reus, 2019, p. 77; Ercilla, J., *Approach to a specific legal status for robots*, Aranzadi Journal of Law and New Technologies, 2018., p. 5.

³⁷ Teubner, G., *Digital Personhood? The Status of Autonomous Software Agents in Private Law*, Ancilla Iuris, 2018, p. 6.

³⁸ Ercilla, J., *op. cit.*, note 36, p. 9.

4. PECULIUM AND THE SLAVERY MODEL

The legal status of slaves could be used as a model for creating a legal status for autonomous robots. The Liability for artificial intelligence and other emerging digital technologies 2019 Report explains “One might even draw support for such a solution from the analogy to a historic precedent – the Roman legal concept of *noxal* liability for slaves, whom the law at the time treated as property and not as persons.”³⁹

In Rome, the slave was legally considered as a *res*, his human condition was not ignored, and as time went on, his human characteristics, such as the sensibility and intelligence of any human being, were increasingly recognised. Although the slave was classified as a *res*, the term *homo* was also used to refer to him, emphasising his humanity and distinguishing him to some extent from material goods. Man is here the slave, who is therefore *homo*, *persona* and *res* at the same time. It can be concluded that slaves in Rome were a completely atypical *res*, about which the law developed rules to regulate their treatment.⁴⁰

The concept of *peculium* played a fundamental role in the development of legal relations between *servus* and third parties in ancient Rome. The Digest defines *peculium*: *Peculium* consists of whatever a slave has been able to save by his own thrift, or whatever his master has allowed him to keep for his own use.⁴¹ It was not only property, but also had a legal and institutional dimension as a peculiar form of ownership.⁴²

It refers to the actual patrimony that the slave managed under the authority of his *dominus*. Although the *servus* had a certain autonomy, it didn't extend to the procedural sphere and he didn't have full legal capacity, the *peculium* allowed him a certain autonomy in the administration of property.⁴³ However, slaves could not be judged by their own actions, nor could they appear in court, as they were the property of the *dominus*, who was the only one with full legal capacity.⁴⁴

³⁹ The Expert Group on Liability and New Technologies – New Technologies Formation, for Justice and Consumers, Liability for artificial intelligence and other emerging digital technologies, Publications Office, 2019.

⁴⁰ Crook, J., *Gaius, Institutes*, The Classical Review, 1967.

⁴¹ Robinson, R.B.; Hardy JR, J. D., *An Actio de Peculio in Ante-Bellum Alabama*. The Journal of Legal History, vol. 11, no. 3, 1990, p. 364.

⁴² Perani, R., *Intelligenza Artificiale e Digesta Iustiniani. La casistica Romana per un orientamento nella risoluzione automatizzata delle controversie*, Guiffre Francis Lefebvre, Università Degli Studi di Milano, 2023, p. 82.

⁴³ Ercilla, J., *op. cit.* note 36, p. 8.

⁴⁴ Lepore, P., *Fontes, Testi giurisprudenziali ad uso del corso di Istituzioni di diritto romano*, Giuffrè Francis Lefebvre, 2021, p. 15.

The *peculium* helped slaves to engage in economic transactions, but the obligations arising from these transactions did not fall directly on the *peculium*, but the *dominus* remained liable for the debts incurred by his slave. The introduction of the *actio peculio* was a crucial development in this context, as it allowed the master to be held liable for the slave's debts up to the limit of the *peculium*.

The *actio de peculio* became a key tool for regulating the responsibilities of the dominus in relation to the economic activities of his slaves, this legal action allowed the *dominus* to assume liability for the slave's debts, as long as they were within the limits of the *peculium*. This figure allowed slaves to perform acts of legal significance in their own interest, third parties trusted the *peculio* as if it were the slave's own property, which allowed them to enter into transactions with them. Consequently, the *actio de peculio* sanctioned debts incurred by the slave in his own name and for his own benefit, and established a mechanism whereby the master was liable within the limits of the *peculium*.⁴⁵

Although, legal liability remained with the master, the introduction of the concept of the *peculium* opened the way for the eventual attribution of liability to the slave himself. This statement shows how the existence of the *peculium* opened up the possibility that, in the future, the slave could henceforth legal responsibility for his actions within the limits of his *peculium*, albeit always under the supervision and responsibility of the master in the first instance.⁴⁶

5. SIMILARITIES WITH THE REAL PERSONALITY OF ROBOTS

From today's perspective, a robot can be seen in the same way as the Roman slave: the AI cannot be considered a subject of rights, but it has the capacity to act autonomously and to cause damage. If in ancient Rome the owner of a slave was liable for the damage caused by the slave, the owner of an AI would be liable for the damage caused by the AI because of the relationship between the two, as was the case in Roman law. In the case of torts, the ancient Romans provided that in the case of unlawful behaviour by the slave, the penalty would fall on the person claiming ownership of the slave. The very structure of the criminal proceedings provided for in Roman private law made this necessary: in recognition of the

⁴⁵ Miceli, M., *Institor e procurator nelle fonti romane dell'età preclassica e classica*, Iura, vol. 53, 2002, p. 234.

⁴⁶ Lacruz, M. L., *Inteligencia Artificial Y Creatividad: Cabalgando Al Tigre*, Anuario de Propiedad Intelectual, no. 2021, 2022, p. 138.

pecuniary nature of the penalty, the objects of the civil obligation resulting from a conviction *ex delicto* could only be transferred to the only subject endowed with legal personality, the owner of a property, the *dominus*.⁴⁷

The parallels between artificial intelligence systems and the ancient institution of slavery can be found, even if the machine does not have the limitations of personal freedom that characterise the slave. The symmetry between the slave and the machine is undeniable, both in terms of information obligations and in terms of the correct attribution of civil liability. As far as non-contractual liability is concerned, the common element is the *servus-dominus* relationship.

In Roman times, the *dominus-servus* link was very strong and exclusive, to the point where it was possible to manage family affairs without having to deal directly or indirectly with one or the other. In the case of modern robotic machines, however, there are other persons involved in addition to those who legitimately own them and use their productivity, and the reference is addressed in particular to the programmer and the producer.⁴⁸ From Roman law we learn that it is unthinkable that there should be an “intelligence” at the service of someone other than its owner, who, as such, can exercise all the known powers inherent in his absolute right over the thing. Slaves, on the other hand, are human beings as free persons: for this very reason, endowed with reason, they are capable of expressing themselves autonomously. This is also the reason why, in the legal sphere, a slave could regularly act on behalf of his owner. It is true, however, that acts of disposition of property of a certain value would have required an act of the master’s will, but the need for this will, expressed by the *dominus* as *auctoritas*, tended to disappear in practice.

Ancient slavery and modern artificial intelligence share aspects on the legal level, but not only on the socio-economic level, given the widespread use of slave labour for commercial production in antiquity and the conceivable (but partly already existing) use of robots, today’s inanimate slaves.

6. CONCLUSION

The case of Michihito Matsuda, an AI candidate in the 2018 mayoral election in Tama City, Japan, offers a fascinating glimpse into the evolving role of artificial intelligence in governance and society. The election campaign, which involved an

⁴⁷ Perani, *op. cit.*, note 42, p. 111.

⁴⁸ Franchini, L., *Disciplina romana della schiavitù ed intelligenza artificiale odierna. Spunti di comparazione*, Diritto Mercato Tecnologia, 2020, p. 22.

android robot named Michihito Matsuda running with a platform promising fairness and equality, sparked debates about the potential role of AI in decision-making, leadership, and responsibility. While the AI system presented itself as the face of the campaign, it was ultimately shaped and controlled by human organizers. This highlights the central question: are AI systems merely tools to assist human decision-making, or are we allowing them to replace human leadership altogether? This situation underlines the growing need to establish clear ethical and legal frameworks for AI's role in governance and society. In this particular case, the AI candidate did not act autonomously, but its very participation raised complex issues of accountability and responsibility. The distinction between human and machine decision-making becomes increasingly blurred as AI systems gain more autonomy and integrate into societal roles. As seen with Michihito Matsuda, AI systems are often presented as decision-making agents, but their actual independence is questionable. This raises concerns about the ethical implications of using AI as a replacement for human leadership and whether such systems should be granted any legal status or rights.

As AI systems like Michihito Matsuda continue to evolve, they challenge traditional notions of personhood and legal responsibility. AI entities often exist in a grey area between object and subject, questioning whether they could be granted legal personhood in the future. While this idea remains highly controversial, it serves as a prompt for society to reflect on the future relationship between humans and intelligent systems. The debate around granting AI legal status ties into the broader ethical discussions about the consequences of recognizing such entities as legal persons, which could complicate the allocation of responsibility for their actions.

The case also brings attention to the issue of human-robot interaction. People tend to attribute human-like qualities to robots, especially humanoid ones, even if they are not fully accepted as living beings. This complex interaction challenges our perceptions of technology and its role in society. It also raises questions about how AI systems should be designed and integrated into society to avoid unintended social consequences, such as reinforcing biases or influencing human behaviour in undesirable ways. As AI continues to develop and take on more prominent roles, the need for regulations that balance innovation with accountability becomes ever more pressing. Relating this to the broader context of AI ethics and legal status, the case of Michihito Matsuda illustrates the importance of carefully considering how these technologies are treated legally and socially. Should advance AI systems be recognized as new categories of entities, distinct from humans but also separate from traditional machines? As AI becomes more integral to our daily lives, society must decide how to classify and value these systems. Understanding their potential

impact on society and how they should be integrated into governance, law, and human relationships will be crucial in shaping the future of AI-human coexistence. In conclusion, as AI continues to gain prominence in fields like governance, the need for a legal and ethical framework that governs its use becomes critical. AI should remain a tool that serves humanity, promoting human welfare and freedom rather than undermining it. This evolving relationship with AI presents a pivotal moment for society to engage in discussions about the rights, responsibilities, and ethical considerations surrounding intelligent agents in our world.

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