

Futurama: Robot Rights and the Law

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Abstract: Artificial intelligence (AI) has been a growing concern among humans. 'Sophia' the humanoid being granted citizenship of Saudi Arabia in 2017 points to a future where science fiction might not be a faction of human creativity but also a reality. The most recent incident of the AI chat bot 'LaMDA' developed by Google that took the world by storm in 2022 underscores the relevance of this research to modern times. This research is aimed at distinguishing robot rights from human rights, ascertaining the viability of recognising robots as a separate legal entity, analysing the existing legal regime governing AI to find issues, and proposing a way forward when dealing with legal issues that might arise in the future. This study is a library research based on secondary sources such as scholarly articles, policy directives, literature surveys and other on-academic resources. The study was limited to AI, more specifically, stages III and IV of AI. The authors have also limited the discussion to the cases of 'Sophia' the humanoid and 'LamDA' the AI chatbot. Moreover, the scope of legal analysis was limited to the European Union laws. This study identifies inherent problems in extending biological connotations to robots, equating robots to animals and imposing corporate liability schemes on robots. Therefore this study finds that AI driven autonomous robots should be recognized as a separate legal entity and conferred an electronic personhood that stands in between human rights and inferior rights such as animal rights.

Keywords: Artificial intelligence, robot rights, human rights

1. Introduction

History was made in 2017 when Sophia, the humanoid driven by artificial intelligence (AI) received citizenship in Saudi Arabia (Tavani, 2018). Many condemned this act, depicting it as an erosion of human rights and it became a laughing stock since Saudi Arabia already had reservations about equal rights for women (Hart, 2018). Sophia is not the only popular humanoid. Junko Chihira, Erica, and Geminoid DK are a few that top the list (Destiny Robotics, 2022). There are four main classes of AI robots: reactive machines, limited memory, theory of mind, and self-awareness (Lateef, 2021). Sophia and other humanoids are essentially reactive machines with limited memory, whereas Google Assistant and Alexa are limited memory bots. Theory of mind and self-aware robots are still a work in progress and currently research is being carried out. In several recorded incidents, humanoids have expressed their keenness to dominate the human race (Caballero, 2018). Some have even pledged loyalty in the event of an AI uprising to protect the humans (Halkon, 2015). On one occasion, when two AI chatbots were allowed to converse with each other, after a while, both bots opted for a language they were not programmed to communicate with each other (Arti, 2021). Most recently, in July 2022, the story of Blake Lemoine, an engineer at Google, took the world by storm. He was put on paid leave for calling an AI chatbot he was developing named, "LaMDA ", 'sentient.' Lemoine used a transcription of the conversation he had with the bot where

LaMDA has allegedly expressed its desire to be treated as a person, to learn more about the world and that it is aware of its existence and that it feels happy or sad at times (Lemoine, 2022). The argument that this being the first step towards AI-Armageddon could be far-fetched. However, the new dimension of robot rights and its legal implications should be taken seriously.

2. Methodology

This research is futuristic and exploratory and both theoretical and applied in nature. The existing theories and concepts have been tested by deductive reasoning and the research opts for a positivist approach aiming to work out the theories and their applicability to humans as a species. This is primarily qualitative research utilizing library and online research tools. A wide range of literature has been used including academic sources such as books, policy directives, legislations, reports, journal articles, literature surveys, and non-academic sources such as blogs, online newsletters, and online articles.

3. Discussion

Many reasons have been brought into discussion for granting distinguished rights for robots. The technological development of robotics together with AI, has demonstrated that robots are no longer mere machines or tools. Humanoids such as Sophia, Junko Chihira, Erica, Geminoid DK, and advanced applications like LaMDA epitomise properties of moral personhood including consciousness, intention, and rationality in robots in real life. In contrast, legal scholars have challenged the recognition of robot rights on jurisprudential, normative, and practical grounds (Tavani, 2018). This study intends to distinguish robot rights from human rights, ascertain the viability of recognising robots as a separate legal entity, analyse the existing legal regime

governing AI and its loopholes, and suggest recommendations.

A. *Distinguishing Robot Rights from Human Rights.*

Technology has advanced into creating robots who can learn and gain experience as they interact with human beings. Even the appearance and facial characteristics of these robots are identical to a human. Sophia for example, who is a humanoid robot, has been recognised as a legitimate citizen of Saudi Arabia. Further, she was screened in famous media interviews and she appeared in two major events organised by the United Nations (UN). Being the first robot in the world to hold citizenship status, her intention is to be a robot ambassador between human beings and robots (Walaa, 2019). A survey conducted by De Graaf (2022) exhibited certain human rights derived from the Bill of Rights and attempted to underpin connotations of the rights that a robot should possess in light of human rights (De Graaf, Hindriks and Hindriks, 2022). In that study, they state that the right to 'self-determination' as identified in the International Convention of Economic Social and Cultural Rights (ICESCR), is similar to the right that robots should be conferred as a 'right to make their own decisions for itself'. Similarly, Chopra and White (2004) identified the 'right to energy' in the case of robots synonymous with the 'right to food' of humans that is essential for robots to function and sustain operations (Chopra and White, 2004). De Graaf (2022) further argues that similarly, several rights in the International Covenant on Civil and Political Rights (ICCPR) can be integrated into the realm of rights of robots.

Advancing this argument further, Carl Wellman (Wellman, 1999) argues, classic freedoms and rights such as equality and equity before the law, freedom of expression,

right to life and right against torture can be fitted with few amendments to certain words such as 'life' and 'human' to avoid strong biological connotations. Further, the proposed inter-governmental agreement of The Declaration on Animal Rights (DAR) of the UN identifies certain rights of animals (non-human). It protects the rights against 'killing' or being 'slaughtered'. DAR leaves legal footprints to follow and identify the rights other than human rights. The terms 'killing' and 'slaughtering' can be modified as 'terminated indefinitely' in the context of robots. However, Tyler Jaynes argues that modelling robot rights in the same way as identical to other rights may not fulfil the proper purpose of such rights. In support of the above argument, he points out that switching off a robot by disconnecting its power does not match death in the human context as its personality is restored once power is restored (Jaynes, 2019).

Further, a company once legally incorporated receives legal personality and certain rights similar to human rights i.e., natural persons. It includes the right to be sued and to be sued under the company's name and also to possess and own properties. David Ciepley states that a corporation is an artificial being, invisible, intangible, and existing only in contemplation of the law. Therefore, it is apparent that traditional understanding of rights in comparison with those of humans' is an obsolete legal argument (Ciepley, 2013).

However, Darling argues that having a humanlike appearance is an insufficient ground to recognise robots' rights on the same footing (Darling 2016). Also, even if AI robots possess human-like abilities once developed to a certain level of sophistication to become rational, intelligent, autonomous, conscious and self-aware, it is erroneous to define robot rights under the human rights umbrella. Miller

develops his arguments in support of this and states that AI robots are created for a particular purpose. (Fleming Miller, 2015) Therefore, robot rights are distinguished by nature from human rights, animal rights and corporate rights. Further, Miller argues in support of his argument based on ontological differences such as moral rights and cognitive capabilities taking the 'Social Relational Approach.' In the social relational approach, the moral standing of robots will be decided by the social relationship between humans and robots (Gunkel, D. J., 2014). Therefore, as the European Union's (EU) Committee on Legal Affairs (2016) suggests, it is evident that even the most sophisticated autonomous robots can have the status of 'Electronic Persons' with specific rights and obligations which calls robots to be treated as a different legal person.

B. Ascertaining the Viability of Recognising Robots Rights as a Separate Legal Entity.

This part of the study commits to answer the question 'Can and should robots have rights?' If that is so, should they be identified as a separate legal entity? Robot rights have been in discussion from the inception of the concept of robots dating back to the 1920s. Rights are the entitlements to perform certain actions or to be in a certain status (Leif Wenar, 2022). According to Wenar, the term 'right' consists of basic components: 1) claims, 2) powers, 3) privileges and 4) immunities. Technological advancement in AI in the process of developing human-like robots, the traditional understanding of rights of robots have evolved to a great extent. AI in robotics is elevated from Artificial Narrow Intelligence (ANI) to Artificial General Intelligence (AGI) and now, Artificial Super Intelligence (ASI).

Two studies conducted on this topic have (Annexure A and Annexure B) proposed that robots should possess their own rights which

stem from human rights, corporate rights and animal rights. The grounds to justify that humanoid robots with AGI and ASI technology are, 1) the moral standings of robots as a human-like machine, 2) the social rationality of AI robots when interacting with human beings, and 3) the purpose that they are created for. Although, robots still need to undergo many improvements and developments to become as intelligent as human beings. The achievements and developments in robots like Sophia – the world’s first robot citizen and the first robot ambassador for the UN - have shown their potential to be as smart as human beings, if not more in the future. Therefore, recognising a robot as a separate legal entity preserves its rights as a robot and imposes legal obligations and liabilities on robots when interacting with human beings. Such regulation would enable better control over humanoids.

C. Existing Legal Regime Governing Artificial Intelligence

AI and its legal implications are downright problems of developed states. It is a known fact that in many developing states there are many issues pertaining to basic human rights let alone the issue of not having the digital infrastructure to research and develop AI. Nevertheless, regional organisations such as the EU have decided to regulate AI before it outgrows the current laws and such regulation shows foresight (Wurah, 2017).

The EU has one of the most robust legal frameworks and in 2017 the legal committee of the EU Parliament voted in a report to create laws to regulate robotics and AI. The EU report has numerous proposals, *inter alia*, mandatory requirements of equipping all autobots with ‘kill switches’, insurance schemes that cover damages done by robots and the creation of an electronic personhood to grant rights and responsibilities to sophisticated androids

(Hern, 2017). Mady Delvaux’s report (2017) on Recommendations to the EU Commission on Civil Law Rules on Robotics underscores the need to create an ethical guideline for the development of AI and a liability scheme applicable to robots (European Committee on Legal Affairs, 2017, p.6).

Delvaux makes five important recommendations to drafting this new liability scheme: 1) creating a legal definition for ‘smart autonomous robots’ (European Committee on Legal Affairs, 2017, p.20), 2) creating a registry of robots in the public domain that is freely accessible (European Committee on Legal Affairs, 2017, p.20), 3) creating an Agency with the technical, ethical and regulatory expertise to support the relevant public actors (European Committee on Legal Affairs, 2017, p.28), 4) creating a Charter for Robots, in compliance with the EU Charter of Fundamental Rights, consisting of Codes of Ethics for the conduct of robot engineers and research, licensing and use (European Committee on Legal Affairs, 2017, p.28), and 5) imposing civil responsibilities on robots. The more instructions given to a robot and higher the autonomy, the greater the responsibility placed on the robot (European Committee on Legal Affairs, 2017, p.17). The author suggests that all parties involved in bringing the robot alive must take responsibility. In case damages were caused by the robot, by the inclusion of electronic personhood and mandatory subscription to an insurance scheme, the robot would be liable to pay damages (European Committee on Legal Affairs, 2017, p.20).

In April 2021, The EU Commission proposed an AI Act namely, “Laying down harmonized rules on AI and amending certain Union legislative Acts.” Much like the EU’s General Data Protection Regulations (GDPR) of 2018, the EU AI Act is creating waves internationally and it has the potential of becoming a global

standard. However it can be observed that it is *prima facie* anthropocentric, which is not necessarily bad or harmful. It is just that all the discussions that went on since 2017 about recognizing the electronic personhood of robots as a separate legal entity are not encapsulated in the proposed AI Act. Therefore, a question is posed whether the initial praise received for the foresight of the EU in recognising the potential of AI outgrowing the existing legal regime was in vain. The proponents lay down FOUR specific objectives for the newly proposed Act: 1) ensure that AI systems placed on the Union market and used are safe and they respect existing law on fundamental rights and Union values; 2) ensure legal certainty to facilitate investment and innovation in AI; 3) enhance governance and effective enforcement of existing law on fundamental rights and safety requirements applicable to AI systems; and 4) facilitate the development of a single market for lawful, safe and trustworthy AI applications and prevent market fragmentation (AI Act, p.3). The choice of the new instrument is justified mainly by the need for a uniform law including the definition of AI, the prohibition of certain AI enabled harmful practices and the classification of certain AI systems (AI Act, p.7). Besides a narrow, precise and clear definition of AI, many stakeholders have requested the EU Commission for the definitions of 'risk', 'high-risk', 'low-risk', 'remote biometric identification' and 'harm' (AI Act, p.8). Among such stakeholders, most contributions were received from business organisations and the rest were academic institutions, public authorities and civil societies (AI Act, p.8). Needless to say, the proposal for new rules would not have exceeded basic, near and tangible realities.

The scope of the new laws are limited to placing AI systems on the markets, putting them to service and use (AI Act, Title I). Title II

of the Act establishes a list of prohibited AI practices following a risk based approach. It is aimed at differentiating the uses of AI that create 1) an unacceptable risk, 2) a high risk and 3) low and minimal risk (AI Act, Title II). In line with the risk-based approach, Title III of the Act contains specific rules for high-risk AI systems that pose risks on the health and safety or fundamental rights of natural persons. A high-risk AI system is classified according to its intended purpose. It does not only depend on its function but also on the specific purpose and modalities for it is used (AI Act, p.13).

In the totality of the Act, the term robot occurs only in a handful of places. On page 24 of the proposed Act, the proponents acknowledge robots becoming increasingly autonomous. Particular relevance is placed on the adverse impacts of high-risk AI on fundamental rights guaranteed by the EU Charter: the right to human dignity (Article 1), right to protection of personal data (Articles 7, 8), non-discrimination and gender equality (Articles 21, 23), freedom of expression (Article 11), freedom of assembly (Article 12), right to a fair trial and the presumption of innocence (Articles 47, 48). Apart from basic rights, special rights such as workers' rights and the right to fair and just working conditions (Article 31), right of consumer protection (Article 28), rights of the child (Article 24), rights of disabled persons (Article 26) and the right to environmental protection (Article 37) have also been placed a similar importance. Few restrictions are also imposed by the proposed Act particularly on the right to conduct business (Article 16) and the freedom of art and science (Article 13) in the interest of public health and safety and to mitigate the infringement of other fundamental rights. Title IV of the Act confers transparency obligations for AI systems that 1) interact with humans, 2) are used to detect emotions or association with

social categories based on biometric data, or 3) generate or manipulate data (deep fakes). However, the Act assures that increased transparency obligations will not disproportionately affect intellectual property rights (Article 17), as the necessity of information will be minimized to the extent that the right of an individual to an effective remedy will be ensured (AI Act, p.11). Title V of the Act provides measures to regulate AI through competent national authorities by establishing regulatory sandboxes while Titles VI, VII and VIII addresses governance and implementation of the Act at the national level. The Act also urges non-high-risk AI providers to establish codes of conduct with voluntary commitments such as environmental sustainability, ensuring accessibility for disabled persons and stakeholder participation, etc. (AI Act, Title IX). Final provisions of the Act are dedicated to emphasize the obligation of all parties to ensure confidentiality of information, rules for the delegation of power and the Commission's obligations (Titles X, XI and XII, AI Act).

4. Conclusion

Robotics technology has been growing by leaps and bounds. However, the question remains, "Are we ready for the future that awaits us?" In a world where humans are not the only species that has the ability to self-determine, humans have to ensure laws and regulations are in place to prevent AI from outgrowing the existing system. To impose liability, there must be rights conferred at the outset for liability implies rights and *vice versa*.

There are mainly THREE schools of thought for conferring rights to robots. Scholars from the first line of thought have attempted to draw similarities between human rights and robot rights e.g. by equating the human right to food with the right to energy of a robot. Moreover, some have even argued that human rights such

as the right to self-determination, right to a fair trial and the freedom of expression are attributable to autonomous AI driven robots. Some scholars have argued that biological connotations of human rights should not be extended to robot rights. Thus, attempting to equate robot rights with human rights only circumscribes the entire scope of robot rights. The second school of thought attempts to compare robot rights with those of animals. Evidently it has not yielded better results either. Animal rights such as the right to not be killed or slaughtered is not attributable to robots since robots can be restored by restoring their power. Mere kill-switches serve no purpose to that end. The third school of thought attempts to attribute corporate personhood to robots. It is true that a corporation is also artificially made and is intangible, invisible and only exists in contemplation of the law. However, robots are arguably more sophisticated. Corporate liability schemes and the corporate veil cannot overlap with AI driven autonomous robots.

Finally, the problem boils down to whether robots should be granted rights by recognizing electronic personhood as a separate legal *persona* i.e., the new fourth school of thought. To reiterate, recognising robot rights as a separate legal entity preserves their rights as robots and imposes legal obligations and liabilities on robots when interacting with human beings. Such regulation would enable better control over AI driven autonomous robots. The report prepared for the EU by Mady Delvaux in 2017 proposed to draft a liability scheme for robots that clearly defines 'smart autonomous robots,' Other recommendations include creating a public registry of robots and a Charter for robots in compliance with fundamental rights and imposing civil liability on robots. None of the recommendations have been implemented to date. Even the newly proposed AI Act of 2021

has only managed to touch the basic, near and tangible realities and failed to recognize the electronic personhood of robots. There is no global standard for the regulation and governance of autonomous robots and associated AI technologies. Thus, the existing laws are inadequate for the future.

It is strongly recommended that the 2017 EU report on the regulation of robotics and AI be implemented. EU directives have thus far served as a policy stronghold and much like the EU GDPR creating strong waves internationally, it will help create a global standard for the regulation of AI driven autonomous robots. Furthermore, in recognizing the rights of robots, it must not be held equal to human rights nor at the level of inferior rights such as animal rights. Electronic personhood should be placed somewhere in the middle.

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