

LEGAL PERSONHOOD FOR ARTIFICIAL INTELLIGENCE: A JURISPRUDENTIAL DILEMMA

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BEST CITATION – SRISHTI YADAV, LEGAL PERSONHOOD FOR ARTIFICIAL INTELLIGENCE: A JURISPRUDENTIAL DILEMMA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (9) OF 2026, PG. 421-425, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

This article studies about the legal and philosophical challenges of awarding “legal personhood” to the Artificial Intelligence (AI) systems, exploring Indian law jurisprudence. With traditional approach, the legal system was basically divided into two parts, first as “legal objects” and second as “legal subjects” former being passive tools animals and software and later entities like humans and companies, entitled to rights and obligations. Now with time, this division has been broken with the rise of smart, agentic AI machines that are capable of planning, learning and making decision without complete human control. However, there comes a “responsibility gap” when an autonomous machine makes an unpredictable fault that causes financial or physical harm. The traditional rules of defining liability or criteria for negligence fails as no human could foresee the actions of a machine.

This article studies whether AI can be treated as a “juristic person” in the eyes of the law. Unlike rigid western legal systems, Indian jurisprudence has a flexible approach in granting legal status to non-human entities. The Indian courts have recognized Hindu deities as legal persons with some criteria to be fulfilled.

By analysing the classical legal theories with the Indian Statutes like the Indian Contract Act, 1872, the Patent Act, 1970 and the new criminal law Bhartiya Nyaya Sanhita 2023, this article evaluates the possibility of benefit and harm of AI personhood.

Keywords– Artificial intelligence, Legal personhood, Juristic persons

INTRODUCTION: The “Person vs. Thing” Crisis in Modern Law

With time, we have seen a massive technological shift. For years, the law was working on the very simple rule with only two divisions, these are the “subjects” and the “objects”. Legal subjects are the “persons” who holds the rights and duties. This includes the natural persons which are the human beings and the artificial juristic persons given legal status by the law like the company, corporations and government bodies. While legal objects are the things that do not possess rights and duties, they are the property, tools, and instruments which are controlled by the humans.

This traditional two-part division assumes that the human beings are always in the complete, predictable control of their tools. Accordingly, if a tool breaks or causes harm, the law traces the fault back to a human, either to the creator of the tool, the seller or the user.

But the “agentic AI” changes everything. Agentic AI system refers to those systems that can act autonomously to achieve certain goals, rather than simply responding to individual prompts. These AI systems are designed to plan, adapt, and make complex decisions in real time with little or no human supervision. Nowadays, these deep-learning neural networks do not just follow a rigid, step-by-step program but they learn

from massive datasets and adapt to dynamic environments. This critically means that their final actions are often statistically unpredictable because of adaptability to massive databases. This unpredictability is even to the programmers who wrote the original code.

Now, when an autonomous AI causes physical, digital or financial harm, the traditional legal system faces a “responsibility gap”. This is because the behaviour of the machine falls under the active “subject” but is legally treated as a passive “object”, the law struggles to hold anyone accountable. For instance, the self-driving car or an AI-powered robot makes a unpredictable mistake, here proving a human developer “negligent” is incredibly difficult as the error was not directly planned or intended because it lacks the core of the crime the *mens rea*. Yet, the victim who suffered loss cannot even sue the “object” AI itself.

This responsibility gap threatens the famous legal philosopher Ronald Dworkin’s “law’s integrity”⁶⁸⁴. Dworkin has argued that the legal system must “speak with one voice”. Its rules and decisions must flow from a single, consistent set of moral and logical principles. The entire legal system starts to lose its coherence and predictability when the courts and legislatures are forced to make inconsistent and ad hoc rules to handle AI issues. To preserve this integrity, legal scholars and lawmakers must carefully evaluate whether AI can, or should, be granted some form of legal personhood.

HISTORICAL AND PHILOSOPHICAL ROOTS: WHAT IS A “PERSON”?

The “Theatrical Mask” of the Law

Before delving into the intricacies of why AI should get the legal personhood, we must first know that “personhood” in law is not a biological fact. It is rather a functional social construct. The word “person” is derived from the Latin *persona*, which originally referred to the physical clay or wooden mask worn by actors in ancient Greek

and Roman theatre to project their voices and represent the different characters on the stage.

In ancient Roman law, this theatrical metaphor was imported into the courtroom. A *persona* represented a designated legal role or capacity like a citizen, a father, or a guardian rather than a biological human.

Roman law separated biological humanity from legal standing. For example, slaves were biologically human, but the law classified them as *res* (things) or objects of rights, meaning they could not own property or sue in court. Conversely, the Romans used the words *caput* (standing) to show an individual’s specific legal rank in society, which could change or be lost entirely depending on their citizenship or family status.

As trade and public administration grew in the Middle Ages, legal scholars realised they needed a way to manage the property and contracts of collective institutions like monasteries, trade guilds and town councils. They developed the idea of *persona ficta* (fictional personhood). This allowed monastery to own land and enter contracts as an independent “fictional person” entirely separate from the individual monks who lived inside it. The history of law shows that the boundaries of personhood have always expanded or contracted based on social and economic needs.

ENLIGHTENMENT PHILOSOPHIES OF PERSONHOOD

During the Enlightenment, there has been various efforts put by the philosophers to tie legal personhood to human consciousness, free will and moral capacity.

- Gottfried Leibniz was the first philosopher to argue that only “persons” can hold and bear the rights, while “non-persons” can only be the passive objects of those rights.
- Immanuel Kant defined a “juridical relationship” as the moral and legal bond

⁶⁸⁴ Ronald Dworkin’s theory of Law of Integrity, *Law’s Empire*, 1986

between a right and its corresponding duty. Under Kant's view, human beings are the only true legal subjects because only humans possess moral autonomy, reason, and the capacity to understand their duties.

- G.W.F. Hegel believed that legal personhood is the starting point of human freedom. He argued that a person must express their inner will by taking control of physical objects (property) to turn abstract freedom into concrete legal rights.

These ideas were accumulated and distilled into modern law by the legal scholars like Professor Thomas Holland, who defined legal persons simply as "the subjects of duties as well as rights"⁶⁸⁵. Under this classical, anthropocentric (human-centered) view, a person is a rational being capable of holding rights and responsibility, while a thing is simply a passive object.

THE RICH INDIAN TRADITION OF NON-HUMAN PERSONHOOD

The Indian jurisprudence has been flexible and incredibly open and creative to think beyond the human and corporate personhood. Under Indian law, a "juristic person" is simply an entity created by the law that can hold rights and duties, own property and sue or be sued. Indian courts have used this flexibility to grant legal status to several non-living, non-human entities. With time and need, the recognition of Hindu idol and deities as juristic persons is a well-settled principle of Indian law. This doctrine was first developed during the British colonial era. Temples held vast amounts of land and wealth, and the British administrators needed a way to protect these assets.

In the landmark *Dakor Temple Case (1887)*⁶⁸⁶, the Bombay High Court ruled that 'A Hindu idol is a juridical subject and the pious idea that it embodies is given the status of a legal person.'

In *Bishwanath and Anr v. Shri Thakur Radhaballabhji (1967)*⁶⁸⁷, the Supreme Court of India confirmed that the deity is the legal owner of the temple's property, while a trustee acts on the deity's behalf. Crucially, the court ruled that if the trustee acts dishonestly or fails to protect the temple's assets, any ordinary devotee can approach the court as a "friend of the deity" to protect the God's property.

However, this status is not given to every statue. In *Yogendra Nath Naskar v. Commissioner of Income Tax (1969)*⁶⁸⁸, the Supreme Court clarified that an idol only becomes a juristic person after its formal public consecration (Prana Pratishtha).

COMMERCIAL AND PATENT LAW BOTTLENECKS IN INDIA

While the Indian courts have been flexible with environmental and religious personhood, Indian Intellectual Property and Commercial statutes remain firmly anthropocentric i.e. human-focused.

The DABUS Patent Battle in India

The immediate tension between autonomous AI and India law is highly visible in patent law. Two patent applications were filed worldwide by Dr. Stephen Thaler for two inventions, one a fractal food container and other was an emergency light beacon which were autonomously created by his AI system, DABUS. Dr. Thaler filed these applications in India listing DABUS as the sole inventor and claiming ownership of the patent because he owned the machine.

The Indian Patent Office rejected the patent application. The refusal was based on several strict statutory rules under the Indian Patent Act, 1970:

1. The "Person" Requirement: Section 6 of the Indian Patent Act⁶⁸⁹ states that a patent application can only be filed by the "true and first inventor" or their assignee. The General Clauses Act of 1897

⁶⁸⁵ The Elements of Jurisprudence, first published in 1880

⁶⁸⁶ Manohar Ganesh Tambekar v. Lakhmiram Govindram, 1887 SCC OnLine Bom 22

⁶⁸⁷ 1867 SCC OnLine SC 12

⁶⁸⁸ 1969 SCC OnLine SC 18

⁶⁸⁹ Persons entitled to apply for patents

defines a “person” as a natural human or a registered corporate entity. An AI cannot be legally named as an inventor.

2. The Chain of Ownership: Under Section 2 of the Act, a patent is a form of property. To transfer property, the transferring entity must have legal capacity. Because DABUS has no legal personhood, it cannot own its invention and cannot legally transfer or assign its right to Dr. Thaler.

THE INDIAN CONTRACT ACT, 1872 AND AGENTIC COMMERCE

The era where we live now is an era of “agentic commerce” where consumers use AI-powered digital assistants to autonomously find, negotiate and purchase goods on their behalf. This creates a severe legal crisis under the Indian Contract Act, 1872.

The lack of capacity, under Section 11 of the act⁶⁹⁰, a valid, binding contract requires that the parties be “competent to contract”. This competency means that the person should be of sound mind and should have attained the age of majority. Furthermore, if a consumer’s AI assistant autonomously buys an expensive software subscription based on its own algorithms, the consumer or the seller could legally back out, arguing that the contract is void ab initio because there was no free consent or consensus ad idem. This shows that keeping AI strictly classified as a thing is starting to paralyze modern digital trade.

CHALLENGES UNDER THE BHARTIYA NYAYA SANHITA (BNS), 2023

India’s criminal justice system recently underwent a transformation with the Bhartiya Nyaya Sanhita, 2023. The BNS has provided the definition of the “person”. According to Section 2 of the BNS, person includes companies, associations, or bodies of individuals, whether incorporated or not. While this easily allows for corporate liability, it does not include AI or non-human software. Moreover, to convict any entity of a crime under the BNS, the prosecution must

essentially prove two basic elements, the actus reus and the mens rea. While AI’s code execution can satisfy the actus reus, an algorithm cannot have mens rea as it does not possess a human mind or conscious intent.

CONCLUSION

The jurisprudential analysis of legal personhood for agentic AI reveals a deep structural dilemma. We cannot treat AI strictly as a passive object because doing this will result in paralysing the digital trade, creating massive contract loopholes and leave courts with inconsistent rules. But on the other hand, if we provide AI a full and complete legal personhood, then this will result in creating a dangerous corporate shield that destroys human accountability and liability.

To protect both technological innovation and human rights, India must adopt a graded, functional model of legal recognition. Rather than a simple “subject vs object” choice Indian lawmakers should utilize the concept of an “artificial juristic person” to enforce data accountability. By adopting a graded, functional framework, Indian jurisprudence can maintain its rich history of legal flexibility. This will allow the nation to embrace the economic power of the digital age while keeping human dignity, safety and ultimate accountability firmly at the centre of the law.

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