

Review of: "[Essay] Not Quite Like Us? — Can Cyborgs and Intelligent Machines Be Natural Persons as a Matter of Law?"

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Potential competing interests: No potential competing interests to declare.

In my opinion this Essay gives an excellent overview of current thinking on what can count as “human” and what does not and explores a range of nuances. It also gives a good summary of relevant terms and legal, philosophical, biological and other background (though I will suggest some expansions). The argumentation is clear and sound, and the writing is concise and easy to read. The conclusions drawn follow logically from the argumentation and are well presented, though I personally disagree with some of them. All in all, I find this Essay to be an important addition to public discussion on an important and timely topic and well worth any reader’s time.

I’ll first briefly argue why I find the conclusions worrying and then make some other suggestions.

Simply put, the Essay finds that being “human” should be substrate dependent and equates being “human” with having rights – if out of two functionally equal beings one contains some human neural tissue, that one is to be considered “human” and the other one is not, with at least some rights depending on that status. How does this differ from the 1850’s USA where skin pigmentation made the difference between property and owner, a full and 3/5 of a citizen? I’m not saying that this conclusion in the Essay does not logically follow from the arguments, nor that it could not become the legal definition for a while but I’m pretty confident that it would come to be viewed as morally wrong later on. Here, a more nuanced analysis of what rights would be only for legally defined humans would be beneficial for the Essay. Being a human, a person, a citizen, a moral subject, a moral patient, etc. are all legal, moral and philosophical categories with slightly differing implications and of course, most have never been well defined even before the advance of AIs and robots - and that is one of the main reasons why this Essay and public discussion on this topic is urgently needed. I expect that a short summary of the history of expanding human and legal rights (instead of starting from the Universal Declaration of Human Rights) would help the reader to understand how complicated an issue this is and, also, serve as a reminder of WHY legal definitions of humanity and personhood matter.

In philosophical terms, this is a question of categorization based on essentialism (what a THING IS) vs. categorization based on functionalism (what a PROCESS DOES) and which categorization is more appropriate for sentient beings in a legal framework.

As stated, I personally feel that this conclusion in the Essay is problematic to say the least, but it is not a wrong conclusion drawn from the argumentation and I do not feel that the author in any way needs to alter the text based on my opinion.

Minor suggestions:

A few paragraphs on the history of human and legal rights before and after the Universal Declaration of Human Rights.

A paragraph on the development of neuroscientific views before the Triune model (as there are several referrals to Descartes, I think many readers would benefit from a very brief summary of cartesian duality)

Nitpicking:

Please add the names of the essays/articles described as well-known in the main text, so readers know to which one you refer to without breaking the flow of reading (especially as Searle 1980 is not in reference list I wonder which of the at least 3 you mean, but in any case, the names make it easier for the readers)