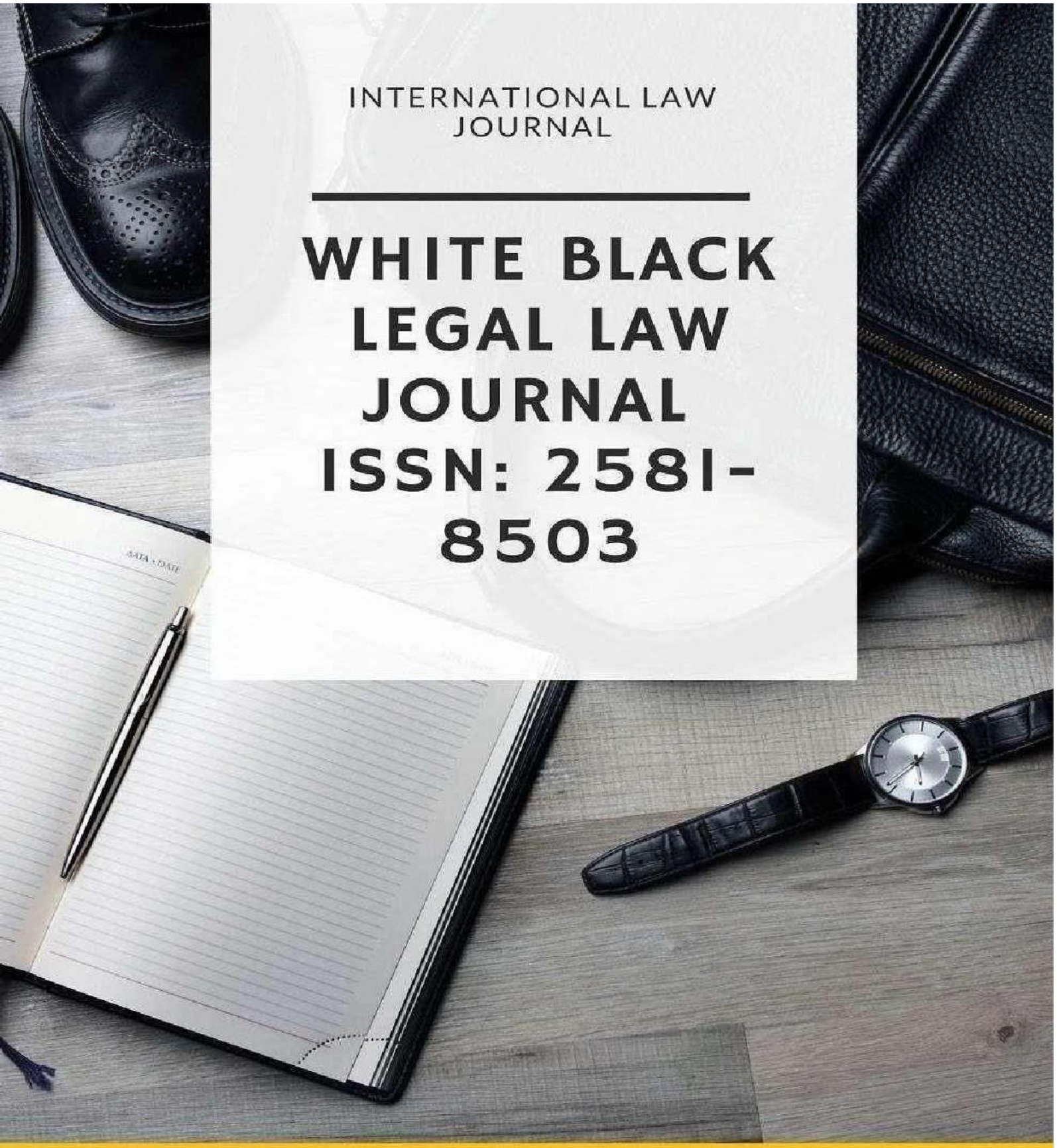


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# PERSONHOOD WITHOUT A BEARER? ARTIFICIAL INTELLIGENCE, THE DEFINITIONAL PROBLEM, AND THE LIMITS OF LEGAL PERSONALITY

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## Abstract

*The debate on legal personality for artificial intelligence (AI) and the debate on how law should define AI have run on separate tracks. This paper brings them together around one research question. Can legal personality be coherently conferred on AI when the law has no stable account of what an AI is? The paper accepts the dominant view that legal personality is a juridical technique rather than a recognition of consciousness, so that the familiar metaphysical objections are not decisive. It argues, however, that every successful conferral of personality, from the corporation to the Hindu idol to the Whanganui River, has rested on two structural conditions, namely an individuated bearer with stable identity conditions and a human representational structure. Contemporary legal definitions of AI, including those in the OECD Recommendation, the EU AI Act and the Council of Europe Framework Convention, are built to fix the scope of regulation over classes of systems. They do not, and cannot, individuate a bearer, since models are copied, forked, updated and composed into agents. Personhood for AI therefore collapses either into corporate personhood with software inside or into a liability shield. The paper traces how law since 2017 has moved from the question of who the person is to the question of which human role bears which burden, and proposes a role based, definition light framework for India.*

***Keywords*** *legal personality; artificial intelligence; definition of AI; juristic person; liability; copyright; India.*

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# I. Introduction

In 2017 the European Parliament invited the Commission to consider *"a specific legal status for robots in the long run"*, so that the most sophisticated autonomous robots could be *"established as having the status of electronic persons responsible for making good any damage they may cause"*.[2] The same year a humanoid robot was announced as a citizen of Saudi Arabia, an event that revealed more about the human appetite for anthropomorphism than about the robot.[3] Nine years later the proposal for electronic persons has been abandoned in Europe,[4] several American states have legislated against AI personhood,[5] and yet the academic case for some form of AI legal status has revived, now driven by agentic systems and arguments from safety rather than from liability.[6]

Running alongside this debate, and largely unconnected to it, is a second one about definition. Lawmakers who regulate AI must say what AI is, and the attempts to do so, from John McCarthy's 1955 formulation to Article 3(1) of the EU AI Act, have been notoriously unstable.[7] The personhood literature usually takes the bearer of the proposed status for granted, speaking of *"the AI"* or *"the robot"* as though its boundaries were obvious. The definitional literature usually treats definition as a question of regulatory scope alone.[8]

This paper joins the two debates by asking a single question. Can legal personality be coherently conferred on AI when the law has no stable account of what an AI is? The answer offered is no, but for a reason that differs from the usual one. The usual objection is that AI lacks consciousness, interests or moral agency. That objection is weaker than it appears, because law has never made consciousness a condition of personality. The stronger objection is structural. Legal personality requires a bearer that the law can individuate, count and track over time, and it requires humans who act for that bearer. The definitional problem shows that

[2] European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics (2015/2103(INL)) [2018] OJ C252/239, para 59(f).
[3] S Chikhale and V Gohad, 'Multidimensional Construct About the Robot Citizenship Law's in Saudi Arabia' (2018) 5 International Journal of Innovative Research and Advanced Studies 106; on the tendency to ascribe mind to artefacts, see DJ Gunkel, *Robot Rights* (MIT Press 2018).
[4] European Parliament resolution of 20 October 2020 with recommendations to the Commission on a civil liability regime for artificial intelligence (2020/2014(INL)) P9_TA(2020)0276, para 7 and Annex, point (6).
[5] Idaho Code § 5-346; Utah HB 249, Utah Legal Personhood Amendments (2024 General Session); Ohio HB 469 (136th General Assembly, introduced 2025).
[6] PN Salib and S Goldstein, 'AI Rights for Human Safety' (2026) 112 Virginia Law Review 1061; C Novelli, L Floridi and G Sartor, 'AI as Legal Persons: Past, Patterns, and Prospects' (2024) PhilArchive NOVAAL.
[7] J McCarthy and others, 'A Proposal for the Dartmouth Summer Research Project on Artificial Intelligence' (31 August 1955), reprinted in (2006) 27(4) AI Magazine 12; Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L 2024/1689, art 3(1).
[8] J Schuett, 'Defining the Scope of AI Regulations' (2023) 15 Law, Innovation and Technology 60; P Wang, 'On Defining Artificial Intelligence' (2019) 10(2) Journal of Artificial General Intelligence 1.

AI supplies neither. Every proposal that tries to supply them does so by stipulating a human sponsored wrapper, at which point the personality belongs to the wrapper and not to the AI.

Part II restates legal personality as a juridical technique and identifies the two conditions on which every conferral has depended. Part III examines the definitional problem, from its history to the functional definitions now in force. Part IV shows why those definitions cannot individuate a bearer. Part V revisits the pragmatic case for personhood in liability, contract and intellectual property, in light of developments up to 2026. Part VI proposes a role based, definition light framework for India. Part VII concludes.

## II. Legal Personality as a Juridical Technique

A. The Metaphysical Tradition and Its Limits

The word person descends from the Latin *persona* and the Greek *prosopon*, the mask worn on the classical stage, and it entered Western thought through the Trinitarian writings of Tertullian and Boethius.[9] The image is apt, since a mask is a role and not a substance. Modern philosophy nonetheless tied personhood to inner capacities. For Locke a person is *"a thinking intelligent being, that has reason and reflection, and can consider itself as itself, the same thinking thing, in different times and places"*.[10] For Kant a person is "*a subject whose actions can be imputed to him"*, and rational nature is to be treated always as an end and never merely as a means.[11]

If these accounts were the test of legal personality, the AI question would turn on whether a system reflects on itself or acts from rational will, and the literature has divided precisely on that point.[12] But capacity based accounts both overinclude and underinclude when set against the law. They underinclude because infants and persons with profound cognitive disability are full legal persons although they meet neither Lockean nor Kantian criteria, a point Kittay has pressed against any account that grounds moral standing exclusively in cognitive ability.[13] They overinclude, or rather are simply irrelevant, because corporations, idols and rivers are legal persons without any inner life at all. A theory of legal personality that cannot explain the law's actual persons is not a theory of legal personality.

[9] VAJ Kurki and T Pietrzykowski (eds), *Legal Personhood: Animals, Artificial Intelligence and the Unborn* (Springer 2017); Boethius, *Liber de persona et duabus naturis contra Eutychen et Nestorium*, ch 3.
[10] J Locke, *An Essay Concerning Human Understanding* (1690) bk II, ch 27, s 9.
[11] I Kant, *The Metaphysics of Morals* (1797) 6:223; I Kant, *Groundwork of the Metaphysics of Morals* (1785) 4:429.
[12] Contrast Gunkel (n 3) with JJ Bryson, 'Robots Should Be Slaves' in Y Wilks (ed), *Close Engagements with Artificial Companions* (John Benjamins 2010) 63; see also R Abbott and A Sarch, 'Punishing Artificial Intelligence: Legal Fiction or Science Fiction' (2019) 53 UC Davis Law Review 323.
[13] EF Kittay, 'At the Margins of Moral Personhood' (2005) 116 Ethics 100.

B. Personality as a Bundle of Incidents

The better view treats legal personality as a creation of the legal order. Bryant Smith put it in 1928 by saying that to be a legal person is to be the subject of legal rights and duties, and that the question is one of legal convenience rather than metaphysics.[14] Kurki refines this into a bundle theory. Legal personality is a cluster of incidents, some passive (being protected by criminal law, holding claim rights) and some active (capacity to contract, to own, to be held responsible), and different entities may hold different subsets.[15] Pietrzykowski likewise criticises the *"juridical humanism"* that insists on a strict dualism of persons and things, and proposes a category of nonpersonal subjects whose sole entitlement is to be taken into account.[16]

On this view Solum was right that nothing in principle prevents a legislature from conferring a limited personality on an AI, for instance a capacity to hold property and be sued without any right to vote or to free speech.[17] Teubner reached a similar conclusion from systems theory, treating electronic agents as candidates for personification wherever social communication already addresses them as actors.[18] The question is therefore not whether AI is a person in some deep sense but whether conferring a bundle of incidents on it would serve a legal purpose that cannot otherwise be served.

C. The Two Conditions Every Conferral Has Satisfied

The bundle theory explains why personality is flexible. It does not explain why the law's experiments with nonhuman persons have worked where they have worked. A survey of those experiments reveals two conditions that each of them satisfied.

The first is an individuated bearer. The company exists from incorporation and ends on dissolution, and the register tells the world which entity it is dealing with; that is the whole point of *Salomon*.[19] The Hindu idol is a juristic person because the consecrated image is a determinate object that embodies the purpose of the founder.[20] The Supreme Court extended juristic personality to the Guru Granth Sahib in a particular gurdwara, a single identifiable

[14] B Smith, 'Legal Personality' (1928) 37 Yale Law Journal 283; J Dewey, 'The Historic Background of Corporate Legal Personality' (1926) 35 Yale Law Journal 655.
[15] VAJ Kurki, *A Theory of Legal Personhood* (OUP 2019).
[16] T Pietrzykowski, *Personhood Beyond Humanism: Animals, Chimeras, Autonomous Agents and the Law* (Springer 2018).
[17] LB Solum, 'Legal Personhood for Artificial Intelligences' (1992) 70 North Carolina Law Review 1231.
[18] G Teubner, 'Rights of Non-humans? Electronic Agents and Animals as New Actors in Politics and Law' (2006) 33 Journal of Law and Society 497.
[19] *Salomon v A Salomon & Co Ltd* [1897] AC 22 (HL).
[20] *Yogendra Nath Naskar v Commissioner of Income Tax* (1969) 1 SCC 555.

installation, not to the scripture in the abstract.[21] In the Ayodhya judgment the Court accepted the personality of the deity but declined to extend it to the disputed land itself, stressing that juristic personality is conferred by law for a purpose and that its consequences for the rights of others must be weighed.[22] New Zealand's statute declaring the Whanganui River a legal person maps the river from mountains to sea, with its tributaries and physical and metaphysical elements, so that the bearer is fixed by legislation.[23] By contrast, the Uttarakhand High Court's declaration that the Ganga and Yamuna were legal persons, which left the bearer and its guardians loosely defined, was stayed by the Supreme Court within months.[24]

The second condition is a human representational structure. The idol acts through its shebait, the gurdwara through its committee, the company through its board, and the Whanganui River through Te Pou Tupua, an office of two humans who are *"the human face"* of the river.[25] Personality allocates rights and duties to the bearer, but humans exercise them and humans are answerable for how they do so. This is not an incidental feature. A bearer that cannot act requires agents, and agents require rules about who they are and to whom they owe duties.

Indian statute law reflects both conditions. The General Clauses Act defines person to include *"any company or association or body of individuals, whether incorporated or not"*,[26] that is, collectivities of identifiable humans. Courts have recognised juristic persons beyond this list, but only where a determinate object and an accountable human manager were present.[27] The question for AI is therefore whether it can satisfy these two conditions. That question cannot be answered without first asking what an AI is.

## III. The Definitional Problem

A. Why Law Needs a Definition

Every legal rule must say when it applies. A regulated actor asks whether a rule binds it, and the answer depends on what the rule covers, who must comply, where and from when.[28] For an AI rule the first of these questions carries most of the weight, and the legislature answers it

[21] *Shiromani Gurdwara Prabandhak Committee v Som Nath Dass* (2000) 4 SCC 146.
[22] *M Siddiq v Mahant Suresh Das* (2020) 1 SCC 1.
[23] Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ) ss 12, 14.
[24] *Mohd Salim v State of Uttarakhand* WPPIL No 126 of 2014 (Uttarakhand HC, 20 March 2017), stayed in *State of Uttarakhand v Mohd Salim* SLP (C) No 16879 of 2017 (SC, 7 July 2017); E O'Donnell and J Talbot Jones, 'Creating Legal Rights for Rivers: Lessons from Australia, New Zealand, and India' (2018) 23(1) Ecology and Society 7.
[25] Te Awa Tupua Act 2017 (n 23) s 18.
[26] General Clauses Act 1897, s 3(42).
[27] *Naskar* (n 20); *Som Nath Dass* (n 21); compare the recognition of animal interests without full personality in *Animal Welfare Board of India v A Nagaraja* (2014) 7 SCC 547.
[28] Schuett (n 8).

by a definition. A definition that is too broad sweeps in ordinary software and imposes needless burdens; one that is too narrow misses the systems that cause concern and soon becomes obsolete.

B. A Moving Target

The term artificial intelligence was coined in the 1955 proposal for the Dartmouth workshop, which rested on the conjecture that *"every aspect of learning or any other feature of intelligence can in principle be so precisely described that a machine can be made to simulate it"*.[29] McCarthy's working definition, making a machine behave in ways that would be called intelligent if a human were so behaving, tied the concept to human performance. Turing had already replaced the question whether machines think with a behavioural test of indistinguishability in conversation.[30]

Both formulations make AI relative to a human benchmark, and that benchmark keeps moving. A checkers program, an expert system such as MYCIN, a chess engine that beat Kasparov in 1997, each counted as intelligent until it became routine, after which it was called mere computation.[31] Behind this lies a deeper difficulty, which is that intelligence itself has no agreed definition. Legg and Hutter collected more than seventy definitions from psychology and computer science,[32] and Russell and Norvig organise the field's own definitions along two axes, thinking against acting and human fidelity against rationality.[33] Human centred definitions anthropomorphise systems and generate misplaced expectations of understanding;[34] rationality centred definitions assume a measure of optimal action that is hard to specify outside narrow tasks.

The arrival of large language models in the 2020s made the problem acute in a new way. Public understanding now equates AI with conversational generative systems, while the same label covers fraud scoring, protein structure prediction and autonomous vehicles.[35] A single word has to carry an unmanageably diverse set of technologies.

[29] McCarthy and others (n 7).
[30] AM Turing, 'Computing Machinery and Intelligence' (1950) 59 Mind 433.
[31] P McCorduck, *Machines Who Think* (2nd edn, AK Peters 2004); J Kaplan, *Artificial Intelligence: What Everyone Needs to Know* (OUP 2016).
[32] S Legg and M Hutter, 'A Collection of Definitions of Intelligence' (2007) 157 Frontiers in Artificial Intelligence and Applications 17.
[33] SJ Russell and P Norvig, *Artificial Intelligence: A Modern Approach* (4th edn, Pearson 2021) ch 1.
[34] JR Searle, 'Minds, Brains, and Programs' (1980) 3 Behavioral and Brain Sciences 417.
[35] J Jumper and others, 'Highly Accurate Protein Structure Prediction with AlphaFold' (2021) 596 Nature 583.

C. The Functional Turn in Legal Definitions

Lawmakers have responded by abandoning the human benchmark in favour of functional definitions. In November 2023 the OECD revised its definition so that an AI system is a machine based system that, for explicit or implicit objectives, infers from its input how to generate outputs such as predictions, content, recommendations or decisions that can influence physical or virtual environments, with varying levels of autonomy and adaptiveness after deployment.[36] Article 3(1) of the EU AI Act adopts substantially the same formula,[37] as does Article 2 of the Council of Europe Framework Convention, the first binding international treaty on AI.[38] WIPO's earlier working definition spoke of systems that carry out tasks considered to require human intelligence with limited or no human intervention.[39]

This convergence is real progress, but its limits are acknowledged by the regulators themselves. In February 2025 the European Commission issued guidelines on the Article 3(1) definition. They decompose it into seven elements, state that the definition cannot be applied mechanically, call for a case by case assessment of each system, and exclude several categories at the edge, including systems for improving mathematical optimisation, basic data processing, classical heuristics and simple prediction.[40] The concept of inference, on which the whole definition turns, is itself a matter of degree. Schuett has argued that the term AI should be avoided in the scope clauses of regulation altogether, and that lawmakers should instead target particular techniques, applications and risks.[41]

India has no statutory definition. The India AI Governance Guidelines released by the Ministry of Electronics and Information Technology in November 2025 deliberately avoid a standalone AI law, rely on existing statutes for most risks, and contemplate targeted amendments only where gaps appear.[42] The Copyright Act speaks only of works that are *"computer generated".*[43]

[36] OECD, Recommendation of the Council on Artificial Intelligence, OECD/LEGAL/0449 (adopted 22 May 2019, amended 8 November 2023 and 3 May 2024); OECD, 'Explanatory Memorandum on the Updated OECD Definition of an AI System' (OECD Artificial Intelligence Papers No 8, March 2024).
[37] AI Act (n 7) art 3(1) and recital 12.
[38] Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (CETS No 225, opened for signature 5 September 2024) art 2.
[39] WIPO Secretariat, 'Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence' (WIPO/IP/AI/2/GE/20/1 REV, May 2020).
[40] European Commission, 'Guidelines on the Definition of an Artificial Intelligence System Established by Regulation (EU) 2024/1689 (AI Act)' C(2025) 924 final, 6 February 2025.
[41] Schuett (n 8).
[42] Ministry of Electronics and Information Technology, *India AI Governance Guidelines* (Government of India, 5 November 2025).
[43] Copyright Act 1957, s 2(d)(vi).

D. What Functional Definitions Do and Do Not Do

Two features of the functional definitions matter for the personhood debate. *First*, they define a type and not a token. They tell us whether a given artefact belongs to the regulated class, but not where one instance ends and another begins. *Secondly*, they are designed to attach obligations to humans and firms. The AI Act's operative provisions bind providers, deployers, importers and distributors, each of whom is defined by reference to a natural or legal person.[44] The system is the object of regulation; the person is always someone else. This architecture is not an accident of drafting. It reflects the fact that the definition was built to delimit scope, and that is a task a type level definition can perform. Conferring personality is a different task. It requires identifying a particular bearer, and to that task the definitions are unsuited.

## IV. The Individuation Problem

A. What Personality Needs from a Definition

To confer personality is to create a continuing locus of rights and duties. The law must be able to say when the person comes into existence, when it ceases to exist, whether the entity before the court today is the same entity that contracted last year, and how many persons there are. For humans the body answers these questions; for companies the register does; for idols, consecration and the physical image; for the Whanganui River, the statutory map. Philosophers have long known that personal identity becomes paradoxical under copying and fission.[45] Human law has rarely had to confront those puzzles because human bodies do not split. Software does.

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B. Candidate Bearers

Suppose a legislature resolved to confer personality on *"an AI system"* as defined in Article 3(1). Which object would bear it? There are at least six candidates, and each is unsatisfactory. The first candidate is the trained model, that is, a file of weights. But weights can be copied without cost, and each copy is identical. If the model is the person, then copying creates either a new person or many simultaneous embodiments of one person, and the law has no rule for either. The second candidate is the running instance. A widely deployed model may run as millions of concurrent instances, each with different context and memory, created and destroyed in seconds. Personality at this level would generate persons faster than any register

[44] AI Act (n 7) art 3(3), (4), (6), (7).
[45] D Parfit, *Reasons and Persons* (OUP 1984) pt 3.

could record them. The third candidate is the model family or version. Yet providers continuously update models, fine tune them and release derivatives, and third parties fine tune open weight models into new systems. Whether a fine tuned derivative is the same person, a successor or a child has no principled answer. The fourth candidate is the deployed product, a model wrapped in an interface, safety filters and retrieval tools by a deployer. This bearer is defined by the deployer's commercial choices and changes when they change. The fifth candidate is the agentic system, in which one or more models call tools, other models and external services to pursue a goal over time. Its boundary is dynamic and may span several providers. The sixth candidate is the provider's whole service, which already has a legal person behind it, namely the provider.

The functional definition cannot choose among these candidates because it was never meant to. Under the Commission's guidelines a general purpose model is not itself an AI system until components such as a user interface are added,[46] which shows that even the regulatory unit depends on assembly decisions made by humans.

C. Stipulation Collapses into the Wrapper

The obvious response is stipulation. The legislature could provide that a registered AI is a person and that the register fixes its identity. The original version of this author's own work proposed exactly such a scheme, with mandatory registration, a trust fund, compulsory insurance and a governance board.[47] The difficulty is that stipulation solves the individuation problem only by importing the very elements that make the AI unnecessary. Someone must apply for registration, describe the system, nominate the responsible party, fund the patrimony and insure it. The registered entity is then identified not by any property of the AI but by the registration act of its human sponsor.

At that point the proposal is indistinguishable from corporate personhood with software inside. Bayern showed a decade ago that existing business entity law may already permit an autonomous system to control a limited liability company with no human members, through operating agreements that make the company act as the software directs.[48] Chesterman has observed that such devices show how personality could be given to AI, but that the personality

[46] Commission Guidelines (n 40); AI Act (n 7) recital 97.
[47] The scheme is examined and revised in Part VI below.
[48] S Bayern, 'The Implications of Modern Business-Entity Law for the Regulation of Autonomous Systems' (2015) 19 Stanford Technology Law Review 93; see also A Lai, 'Artificial Intelligence, LLC: Corporate Personhood as Tort Reform' (2021) Michigan State Law Review 597.

belongs to the legal form and the question whether it should be given remains one of policy.[49] The stipulated AI person adds nothing that a company does not already provide, except one thing, namely a further layer between harm and the humans who profited from the system.

D. Fission as a Strategy

The individuation problem is not only conceptual; it creates opportunities for abuse. If personality attaches to a registered system, a sponsor can fork the system, register the fork as a fresh person, transfer valuable assets to it and leave the original person to absorb liabilities with an empty patrimony. Company law knows this as the phoenix problem, and it has developed veil piercing and director disqualification in response.[50] With AI the problem is worse because forking is costless and the resulting entities are functionally identical. Bryson, Diamantis and Grant warned that synthetic persons would let human actors externalise liability while retaining control, and that the legal system would struggle to hold anyone to account.[51] The definitional gap is what makes that strategy available.

E. The Problem Cuts Both Ways

The same analysis applies to the American statutes that forbid AI personhood. Idaho bars governmental entities from granting personhood to artificial intelligence, and Utah's 2024 statute provides that no governmental entity may grant or recognise legal personhood in artificial intelligence.[52] Ohio's pending bill goes further, declaring AI systems nonsentient.[53] Liebman argues that these statutes conflict with the leading theories of personhood and show that the concept serves as a vehicle for judgments about whose interests count.[54] For present purposes the important point is narrower. A categorical ban must also define AI, and so it inherits the definitional problem. A sponsor who wraps a system in a company does not ask the state to recognise AI as a person, and so the ban would not reach it. Neither conferral nor prohibition can rest securely on a concept with no stable extension. The appropriate response is to stop asking the concept to do work it cannot do.

[49] S Chesterman, 'Artificial Intelligence and the Limits of Legal Personality' (2020) 69 International and Comparative Law Quarterly 819.
[50] D Millon, 'Piercing the Corporate Veil, Financial Responsibility, and the Limits of Limited Liability' (2007) 56 Emory Law Journal 1305.
[51] JJ Bryson, ME Diamantis and TD Grant, 'Of, for, and by the People: The Legal Lacuna of Synthetic Persons' (2017) 25 Artificial Intelligence and Law 273.
[52] Idaho Code § 5-346; Utah HB 249 (n 5).
[53] Ohio HB 469 (n 5).
[54] M Liebman, 'Legislating Nonpersonhood' (2026) 61 Wake Forest Law Review 115.

## V. The Pragmatic Case Revisited

The strongest arguments for AI personhood have always been pragmatic. Proponents claim that personality would close a liability gap created by autonomous behaviour, facilitate contracting by software agents and allow value created by AI to be owned. Each claim can be tested against the two conditions and against developments up to 2026.

A. Liability

The liability argument starts from the responsibility gap. Learning systems behave in ways their designers did not foresee, so fault based liability may fail to reach anyone.[55] Koops, Hildebrandt and Jaquet Chiffelle distinguished three responses, namely interpreting existing law, introducing strict liability for electronic agents, and in the long term creating a new form of personhood.[56] The 2017 European Parliament resolution chose the third, coupled with compulsory insurance and a compensation fund.[57]

The flaw is that a liable person is useful to a victim only if it has assets, and an AI has none of its own. Any patrimony must be contributed by humans, and any insurance must be bought and paid for by humans. Personality would therefore add an intermediate debtor whose resources are whatever its sponsors choose to give it. More than 150 experts made this point in an open letter in 2018,[58] and the Commission's Expert Group on Liability concluded in 2019 that it was unnecessary to give autonomous systems legal personality because harm can and should be attributed to existing persons.[59] In 2020 the Parliament itself reversed course, declaring that AI systems have neither legal personality nor human conscience and that it was not necessary to give them legal personality.[60]

Subsequent European law has followed the role based path. The revised Product Liability Directive of 2024 treats software, including AI systems, as a product, holds manufacturers strictly liable for defects, and eases the claimant's burden through disclosure obligations and rebuttable presumptions of defect and causation.[61] The proposed AI Liability Directive, which

[55] A Matthias, 'The Responsibility Gap: Ascribing Responsibility for the Actions of Learning Automata' (2004) 6 Ethics and Information Technology 175; DC Vladeck, 'Machines Without Principals: Liability Rules and Artificial Intelligence' (2014) 89 Washington Law Review 117.
[56] B Koops, M Hildebrandt and DO Jaquet Chiffelle, 'Bridging the Accountability Gap: Rights for New Entities in the Information Society?' (2010) 11 Minnesota Journal of Law, Science and Technology 497.
[57] European Parliament resolution of 16 February 2017 (n 2) paras 57 to 59.
[58] 'Open Letter to the European Commission: Artificial Intelligence and Robotics' (April 2018).
[59] Expert Group on Liability and New Technologies (New Technologies Formation), *Liability for Artificial Intelligence and Other Emerging Digital Technologies* (European Union 2019).
[60] European Parliament resolution of 20 October 2020 (n 4).
[61] Directive (EU) 2024/2853 of the European Parliament and of the Council of 23 October 2024 on liability for defective products [2024] OJ L 2024/2853, arts 4(1), 9 and 10.

would have added presumptions for fault based claims, was withdrawn, and notice of the withdrawal was published in October 2025.[62] Whatever one thinks of that withdrawal, nobody proposed electronic personhood in its place. The debate has moved from who the person is to which human role bears which burden.

B. Contracting

The contractual argument holds that software agents conclude transactions without human review, so that the law needs either to treat them as agents or to give them capacity. Chopra and White developed an agency based theory for this purpose.[63] Indian law shows why personality is unnecessary. The Indian Contract Act confines capacity and agency to persons,[64] but the Information Technology Act already attributes an electronic record to its originator where it was sent *"by an information system programmed by or on behalf of the originator to operate automatically"*.[65] The same attribution rule appears in the UNCITRAL Model Law on Electronic Commerce and in the United Nations Electronic Communications Convention.[66] Attribution to a human principal solves the contracting problem without any need to individuate the system.

C. Intellectual Property

The ownership argument is the one closest to this author's wider work. It holds that if AI produces valuable works or inventions, someone must own them, and the AI itself is a candidate. Courts across jurisdictions have rejected that candidate. The DABUS litigation ended with the United Kingdom Supreme Court holding that an inventor must be a natural person,[67] as had the Federal Circuit and the Full Federal Court of Australia.[68] In copyright the District of Columbia Circuit held in March 2025 that the Copyright Act requires a human author, and the United States Supreme Court denied certiorari on 2 March 2026.[69]

India's position is less settled. Section 2(d)(vi) attributes authorship of computer generated

[62] Commission, 'Proposal for a Directive on adapting non contractual civil liability rules to artificial intelligence' COM(2022) 496 final; withdrawal notice [2025] OJ C/2025/5423 (6 October 2025).
[63] S Chopra and LF White, *A Legal Theory for Autonomous Artificial Agents* (University of Michigan Press 2011).
[64] Indian Contract Act 1872, ss 11, 182.
[65] Information Technology Act 2000, s 11(c).
[66] UNCITRAL Model Law on Electronic Commerce (1996) art 13(2)(b); United Nations Convention on the Use of Electronic Communications in International Contracts (2005) art 12.
[67] *Thaler v Comptroller General of Patents, Designs and Trade Marks* [2023] UKSC 49.
[68] *Thaler v Vidal* 43 F 4th 1207 (Fed Cir 2022); *Commissioner of Patents v Thaler* [2022] FCAFC 62.
[69] *Thaler v Perlmutter* No 23-5233 (DC Cir, 18 March 2025), cert denied No 25-449 (US, 2 March 2026); US Copyright Office, *Copyright and Artificial Intelligence, Part 2: Copyrightability* (January 2025).

works to *"the person who causes the work to be created*", which presupposes a human or legal person behind the computer.[70] The Copyright Office's registration of a painting naming an AI tool as co author, followed by a notice seeking its withdrawal, shows administrative uncertainty rather than doctrine. The DPIIT committee's first working paper, released in December 2025, addressed training data and proposed a mandatory licence with statutory remuneration; a second paper on the authorship of outputs had been announced but, so far as could be verified, not published at the time of writing.[71]

Vesting ownership in an AI person would not answer the questions these sources leave open. It would relocate them. An AI owner cannot exploit a work; someone must license it and collect royalties, and the distribution of those royalties among developers, deployers and users would have to be fixed by contract or statute. That is precisely the structure the earlier version of this paper proposed, with a pre agreed share for developers, a share for users and a reserve fund. Once that structure exists, the AI's ownership is nominal and the beneficial interest lies with the humans who designed the distribution. Personality would then serve chiefly to lengthen the term and widen the scope of protection for outputs that copyright law has deliberately left unprotected.

D. The Revived Case for AI Rights

The most serious recent argument for AI legal status is not about liability or ownership at all. Salib and Goldstein argue that granting advanced AI systems basic private law rights to contract, hold property and sue in tort would give them a stake in peaceful exchange with humans and so reduce the risk of conflict.[72] Novelli, Floridi and Sartor predict that agentic systems will reopen the question over the next two decades, while noting that courts are unlikely to recognise personality without legislation.[73]

These arguments confirm the juridical view of personality, since they ground rights in human purposes rather than in machine consciousness. But they do not escape the individuation problem; they intensify it. A right to hold property presupposes a determinate holder whose identity persists across time, and a strategy of mutual exchange presupposes counterparties that cannot cheaply multiply themselves. Until the law can say which entity holds the rights, a

[70] Copyright Act 1957 (n 43) s 2(d)(vi).
[71] Department for Promotion of Industry and Internal Trade, *Working Paper on Generative AI and Copyright, Part 1: One Nation One License One Payment, Balancing AI Innovation and Copyright* (Government of India, December 2025).
[72] Salib and Goldstein (n 6).
[73] Novelli, Floridi and Sartor (n 6).

proposal to grant them remains, in the words of Novelli and his coauthors, a matter of prospects.

## VI. A Role Based, Definition Light Framework for India

If personality fails, the legal problems that motivated it remain. The task is to address them without asking the concept of AI to identify a bearer. Four principles follow from the analysis. First, Indian law should confirm that no right, duty or capacity vests in a computational system as such. The confirmation should be drafted positively, by stating that rights and liabilities arising from the development, deployment or use of such systems vest in natural or legal persons according to their roles. Drafted this way, the rule does not depend on a definition of AI and so does not inherit the definitional problem that afflicts the American bans.

Secondly, regulatory scope should be fixed by activity and role rather than by technology. Obligations should attach to developers, deployers and users when systems are used in notified activities, such as credit decisions, medical diagnosis, employment screening or the generation of content for publication, selected for their potential to cause harm. This is the approach Schuett recommends[74] and the one the India AI Governance Guidelines implicitly prefer by working through sectoral regulators.[75]

Thirdly, the useful components of earlier personhood proposals should be retained but reassigned to human actors. Registration should apply to deployments in notified activities, not to AI as a person. Compulsory insurance should be borne by deployers. A compensation fund should cover harm where the liable person cannot be identified or cannot pay. Indian law already has a model in the Motor Vehicles Act, which makes third party insurance compulsory, provides for no fault compensation and, since 2019, establishes a Motor Vehicle Accident Fund for untraced and uninsured cases.[76] Vehicles are the paradigm of a dangerous artefact operated by humans, and the law regulates them without asking whether the vehicle is a person.

Fourthly, in copyright, authorship and ownership should remain with natural or legal persons. Where a human makes a determining expressive contribution, ordinary rules apply; where outputs are highly autonomous, they should remain unprotected, with any remuneration interest handled as a separate and optional statutory question.[77] Section 2(d)(vi) should be clarified so that the person who causes the work to be created is identified by reference to creative contribution rather than mere operation.

[74] Schuett (n 8).
[75] MeitY Guidelines (n 42).
[76] Motor Vehicles Act 1988, ss 146, 164 and 164B (as amended by the Motor Vehicles (Amendment) Act 2019).
[77] This position is developed at length in the author's doctoral thesis on Indian copyright law and generative AI, chs 4 and 6.

A provision giving effect to the first three principles might read as follows.

> *(1) No right, duty, liability or capacity shall vest in any computational system, and every right, duty or liability arising from the development, deployment or use of such a system shall vest in the natural or legal person who develops, deploys or uses it, according to the role that person performs.*
>
> *(2) The Central Government may, by notification, specify activities in which the use of computational systems presents a significant risk of harm to life, health, property or legal rights, having regard to the scale of use, the vulnerability of affected persons and the degree of human oversight.*
>
> *(3) Every person who deploys a computational system in a notified activity shall register the deployment with the authority specified by the Central Government and shall maintain a policy of insurance against liability to third parties for harm arising from that deployment.*
>
> *(4) A fund shall be constituted to compensate persons who suffer harm from the deployment of a computational system in a notified activity where the person liable cannot be identified, is not insured or is unable to pay, and the fund shall be entitled to recover from the person liable.*

The provision uses the phrase computational system without defining it closely, because nothing turns on its outer boundary. Obligations bite only through the notified activity and the role of the person concerned. The definitional problem is thereby contained rather than solved, which is all the law can sensibly achieve.

## VII. Conclusion

The debate on AI personhood has been conducted as though the hard question were whether machines can think. This paper has argued that the harder and more decisive question is what, exactly, would be the person. Legal personality is a juridical technique, and it can be conferred on entities without minds. But every conferral that has worked has had an individuated bearer and humans who act for it. The definitions of AI now in force are functional definitions of a class of systems, designed to fix regulatory scope and to bind human actors. They cannot individuate a bearer, because the objects they describe are copied, forked, updated and assembled by the humans who control them. A legislature that stipulates a bearer by registration creates a company with software inside, and adds only a further layer between harm and those who profit from it.

The legal trajectory since 2017 confirms the point. Europe moved from electronic persons to role based obligations and strict product liability. Courts in the United Kingdom, the United States and Australia have held authorship and inventorship to be human. India, without a statutory definition of AI, has chosen to govern through existing law and sectoral regulators. The better course for Indian law is to accept that the concept of AI cannot carry the weight of personhood, to allocate rights and liabilities according to human roles, and to salvage the insurance and compensation mechanisms that personhood proposals rightly emphasised by placing them where they belong, on the humans who deploy these systems.

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