

LAW AND THE RIGHTS OF THE NON-HUMANS*Dr. Deepa Kansra¹***Abstract**

The law confers rights on the non-human entities, namely nature, machines (AI), and animals. While doing so, the law is either viewed as progressive or sometimes as abstract and ambiguous. Despite the critique, it is undeniable that many of the rights of the non-humans have come to solidify in statutory and constitutional rules of different systems. In the context of these developments, the article sheds light on the core justifications for advancing the rights of non-human entities. In addition, it discusses the conditions for the emergence of these rights and the non-binding normative statements adopted by different stakeholders for advocacy. These include the Charter on the Law of the Living (2021), the Toulon Declaration (2019), and Vienna Manifesto on Digital Humanism (2019), etc. The paper also discusses the relevant theoretical frames, namely post-humanism, digital humanism, and multi-species justice, followed by selective critical views on the subject.

I. Introduction

There are multiple roles attributed to the law, out of which three roles stand out, namely the regulation of human conduct, reforms, and the harmonization of diverse and conflicting interests. While fulfilling these roles, the law makes use of various legal tools and concepts. Take the example of the juristic/juridical/legal personality (juristic personality hereinafter). The concept of juristic personhood has been applied to give effect to and operationalize interests like that of the corporate entities, trusts, and organizations. The concept of juridical personhood in law applies to define the subjects of law, more so the subject matter of rights and duties. Take the example of the United Nations Organization (UNO). The Convention on the Privileges and Immunities of the United Nations, 1946 provides that the United Nations is defined as juridical personality encompassing the specific capacity (a) to contract; (b) to acquire and dispose of immovable and movable property; (c) to institute legal proceedings.² According to Reinisch, “when the United Nations was established it was considered

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² Convention on the Privileges and Immunities of the United Nations, 1946. Available at <https://legal.un.org/avl/ha/cpiun-cpisa/cpiun-cpisa.html>.

necessary that it should enjoy the status of a legal person under the domestic law of its Member States. Such a domestic legal personality is a prerequisite for international organizations to effectively manage numerous practical needs such as procurement contracts, the acquisition of property and the capacity to pursue its private law rights before national courts”.³

According to Fitzgerald, “legal persons are beings, real or imaginary, who for legal reasoning are treated to a greater or lesser degree in the same way as human beings.”⁴ In the case of *Salim v. State of Uttarakhand*⁵, the Indian court writes, “the juristic person connotes recognition of an entity to be in law a person which otherwise it is not. It is not an individual natural person but an artificially created person which is to be recognized to be in law as such. This extension of the personality to the class beyond human beings is one of the noteworthy accomplishments of law or the legal imagination.” In other words, the juridical person is not a human/natural person, but one who is attributed a personality by the legal system. On juristic personhood, the court in the case of *Karnail Singh v. State of Haryana*⁶ states, “for a bigger thrust of socio-political-scientific development, the evolution of a fictional personality to be a juristic person becomes inevitable. This may be any entity, living inanimate, objects or things. It may be a religious institution or any such useful unit which may impel the Courts to recognize it. This recognition is for subserving the needs and faith of the society.” According to Tanasescu, “whoever or whatever has legal standing becomes, because of that, a ‘person’ in front of the law. Legal personality and legal standing are a package; you cannot have one without the other”.⁷

A look at the juristic/legal person brings one closer to the category of the non-human entities, their status, and their importance in law. This is also the area that sheds light on the assertions for recognition of the non-human category, particularly animals, machines, and nature. A series of developments in the fields of technology, philosophy, and other disciplines, have moved the non-human entities to the forefront of legal reforms, domestic and international. The key question that emerges from these developments is who are the non-human entities? And why are they claiming rights?

³ August Reinisch, *Convention On The Privileges And Immunities Of The United Nations Convention On The Privileges And Immunities Of The Specialized Agencies* (2009). Available at https://legal.un.org/avl/pdf/ha/cpiun-cpisa/cpiun-cpisa_e.pdf

⁴ P.J. Fitzgerald, *Salmond on Jurisprudence* 62 (2009).

⁵ High Court Of Uttarakhand, Writ Petition No. 126 Of 2014 (Dated March 20, 2017); 2016 (116) ALR 619.

⁶ High Court of Punjab and Haryana at Chandigarh (decided on 31.5.2019); CRR-533-2013

⁷ Mihnea Tănăsescu, *Understanding the Rights of Nature A Critical Introduction* (Verlag 2022).

The more recent literature on the subject brings forth the grounds behind the rise of the non-human in law. In *Non-Human Nature in World Politics: Theory and Practice*, the editors cite two grounds. Firstly, there is a clear understanding that “nature is not external to human politics” and thus must be represented in the political spaces, and secondly, “harm and violence inflicted on non-human nature compromises human security and the very conditions that enable life (human and non-human)”.⁸ In *Rights in Nature: A Critical Introduction*, the author writes, rights of nature are best understood in the context of this double movement of rights expansion and intensification of human pressure on the environment through capital flows.⁹ In the same context, the Supreme Court of Pakistan in *DG Khan Cement Co. Ltd. v. Government of Punjab through its Chief Secretary, Lahore*¹⁰ states, “the environment needs to be protected in its own right. There is more to protecting nature than the human-centered rights regime.” In the context of animal rights, Swemmer writes about the “gaps in international law towards protecting the rights of all non-human animals” and that “there is a need for reform.”¹¹

II. The Seven Conditions

The literature cited above speaks of the emerging consensus on the gaps in the existing legal frameworks that concern the responsibilities of human beings towards nature and the other species (the non-human life forms). Seven conditions that are most cited for leading to “taking the non-human seriously”.¹² These conditions are (1) the governance challenge (2) conflict of interests (3) advancements in technology (4) emerging consciousness (5) new theoretical frameworks (6) law’s evolution, and (7) cross-disciplinary influences.

The first condition i.e. the governance challenge relates to the gaps in existing legal frameworks. In *Karnail Singh’s Case*¹³, the court states that the animals including avian and aquatics have a right to life and bodily integrity, honor and dignity. They can not be treated as property. There are gaps in laws and new inventions are required to be made to protect the environment and ecology.¹⁴ In another case in which the governance challenge was

⁸ Joana Castro Pereira, André Saramago (Eds.), *Non-Human Nature In World Politics: Theory And Practice*, 3 (Springer 2020).

⁹ *Supra* note 7.

¹⁰ C.P.1290-L/2019

¹¹ Sheena Swemmer, “International Law, Domestic Violence, And The Intersection With Nonhuman Animal Abuse” *Society & Animals* 1-19 (2019).

¹² Florian Cord, “Posthumanist Cultural Studies: Taking the Nonhuman Seriously”, 6 *Open Cultural Studies* 25-37 (2022).

¹³ *Supra* note 6.

¹⁴ *Ibid.*

underlined was at the adoption of the Ordinance on *Establishing Sustainability Rights* by the City of Santa Monica in 2013. In its objective clause, the Ordinance states, “in the last fifty years, national and state governments have attempted to address the crisis by adopting specific environmental protection laws, such as the Clean Water Act, Clean Air Act, National Environmental Policy Act and California Environmental Quality Act, that limit pollution and resource consumption; but those laws also have proven inadequate to provide long-term protection of our rights to clean air, water, and soil, and sustainable food systems, and the rights of natural ecosystems; and whereas, the inadequacy of these laws results, in part, from the underlying legal assumption that the natural world is property, which may be used by its owners -- be they individuals, corporations, or other entities -- for their own, private, short-term economic benefit, generally with minimal regard for the health of the environment”.¹⁵ In the case of rights of animals, advocacy efforts are moving beyond animal welfare legislations to address animal suffering through in-depth research, knowledge production, training, and education.¹⁶

The second condition is the conflicts in interests. The clash of interests between the human and the non-human categories, particularly animals, machines, and nature has been posed as one of the biggest challenges to existing legal processes. A notable instance is a legal case for the freedom rights of *Happy*- the elephant, pursued by the Non-Human Rights Project against the zoo in the United States. The *Project Annual Report*, 2020 cited a few responses to the litigation from the academia.¹⁷ The Report cites Lawrence H. Tribe, who states, “one of the greatest blemishes on our justice system is the wrongful detention of persons ...While the Writ (*Habeas Corpus*) has provided a procedural vehicle for vindicating the right of thousands of humans to not be unlawfully detained, this brief argues that the time has come to consider the Writ’s application to other cognitively complex beings who are unjustly detained. The non-humans at issue are unquestionably innocent. Their confinement, at least in some cases, is uniquely depraved—and their sentience and cognitive functioning, and the cognitive harm resulting from this imprisonment, is similar to that of human beings.”¹⁸ The

¹⁵ The City Council Of The City Of Santa Monica Ordinance Establishing Sustainability Rights (2013). https://www.smgov.net/departments/council/agendas/2013/20130409/s20130409_07A1.htm.

¹⁶ Animal Ethics, Strategic considerations for effective wild animal suffering work (2022). Available at [Strategic-considerations-wild-animal-suffering-work.pdf](https://www.nonhumanrights.org/blog/2020-annual-report/) (animal-ethics.org).

¹⁷ The Non- human Rights Project, Annual Report, 2020. Available at <https://www.nonhumanrights.org/blog/2020-annual-report/>.

¹⁸ *Supra* note 17.

conflict of interests is apparent in many such instances of animal, nature, and machine rights litigation.

The third condition is the rapid pace of technological advancements, which have opened immense possibilities for human beings. These developments demand the recognition of technological entities as an important subject matter of legal reforms. According to Pietrzykowski, “another cutting edge technology that casts doubts on the traditional dichotomy between persons and things concerns the rise of autonomous artificial agents capable of flexibly adjusting their conduct and reactions to the environment. This technology is still in its very early stage of development, but even the first and the most primitive semi-autonomous devices (such as driverless cars and drones or software bots) suggest that further progress in their design and scope of capabilities may pose serious questions concerning the liability for their activities. Moreover, some strands of this technology, such as companion humanoid robots, dedicated in particular to assist elderly patients, may make it difficult for people interacting with them to continue perceiving them as mere objects.”¹⁹ In the same context, Hofkirchner writes, “it seems a common agreement that due to certain progress made in Artificial Intelligence (AI) and related fields mankind is facing a blurring of the human and the machine such that humanism is put under pressure”.²⁰ The field of Intellectual Property Rights is one of the fertile legal grounds for the above-mentioned claims.²¹

The fourth condition is the emerging consciousness, which is embedded in the worth and sacredness of non-human life and forms. Studies from across several fields have contributed to the development of a universal ethic on protecting and nurturing the non-human world. In the words of Svoboda, “non-human entities have intrinsic value independent of their instrumental value. Svoboda writes, “mind-independent intrinsic value is held to be a property possessed by some entities independently of the beliefs, desires, or attitudes of any actual or possible valuer or knower.”²²

The fourth condition connects with the fifth condition about the application of new theoretical frameworks across legal and other disciplinary spaces. This paper, in particular,

¹⁹ Tomasz Pietrzykowski, The Idea of Non-personal Subjects of Law, in V.A.J. Kurki, T. Pietrzykowski (eds.), *Legal Personhood: Animals, Artificial Intelligence and the Unborn*, Law and Philosophy Library 54 (2017).

²⁰ Wolfgang Hofkirchner, Digital Humanism: Epistemological, Ontological and Praxiological Foundations, in Pieter Verdegem (ed.), *AI for Everyone: Critical Perspectives* (2021).

²¹ LexCampus, “AI and IP: The Dabus Patent Case” (2021). Available at <https://www.lexcampus.in/ai-and-ip-the-dabus-patent-case/>.

²² Toby Svoboda, “Why there is no Evidence for the Intrinsic Value of Non-humans”, 16(2) *Ethics & The Environment* 26 (2011).

discusses three theoretical frames, namely multispecies justice, posthumanism, and digital humanism. These frameworks aim for “the reach of inclusion, and the distinction between life and non-life need to be posited as questions.”²³ While speaking for the mainstreaming of the new frameworks, Pietrzykowski writes, “the dualistic divide of the world into persons and things is far too crude to adequately respond to the present and future ethical challenges. Theoretical deficiency here becomes one of the critical obstacles in reconciling law with its scientific and ethical context.”²⁴

The sixth condition is law’s evolution. Recent literature on the future of international and constitutional laws assumes that the law has begun to evolve towards the equal representation of the interests of the human with the non-human entities. On the question of why the language of legal rights is preferred for the non-humans, Tanasescu writes, “rights provoke strong advocacy and inspire passionate struggle”²⁵ Further, “a right has a non-negotiable character, it cannot be traded off as one interest amongst others. Rights Holders are understood as the moral source of the claim, as distinct from being considered an object, albeit a valued one, afforded protections when ethical others recognize their worth.”²⁶ Another way to see law’s evolution is through the emergence of legal sub-fields, for instance, animal law. “It is found that animal law, and the corresponding academic field of legal animal studies, is flourishing and animal rights are gradually beginning to emerge and solidify in case law”.²⁷

The seventh notable condition is the development and exchange of cross-disciplinary research, which has informed and infused the reforms for sustainable systems and effective rights for non-humans. In the book *Non-Human Nature in World Politics*, Carter and Harris write, “over the past decade, notions of the non-human have become established in a range of disciplines—for example, archaeology, human geography, anthropology, and architecture”.²⁸ One notable cross-disciplinary contribution is the Cambridge Declaration on Consciousness, adopted in 2012 by members of the scientific community. The Declaration claims that “non-

²³ Danielle Celermajer, David Schlosberg, Lauren Rickards, Makere Stewart Harawira, Mathias Thaler, Petra Tschakert, Blanche Verlie, Christine Winter, “Multispecies Justice: Theories, Challenges, And A Research Agenda For Environmental Politics” 30:1-2 *Environmental Politics* 119-140 (2021).

²⁴ *Supra* note 19 at 65.

²⁵ *Supra* note 7.

²⁶ *Supra* note 23 at 130.

²⁷ Editorial, “Animal rights: interconnections with human rights and the environment”, 11:2 *Journal of Human Rights and the Environment* 149-155 (September 2020).

²⁸ Bob Carter and Oliver J. T. Harris, The End of Normal Politics: Assemblages, Non-Humans and International Relations, in Joana Castro Pereira, André Saramago (eds.), *Non-Human Nature in World Politics: Theory and Practice* (Springer 2020).

human animals have the neuroanatomical, neurochemical, and neurophysiological substrates of conscious states along with the capacity to exhibit intentional behaviors. Consequently, the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Nonhuman animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates.”²⁹ The Declaration has been cited on several occasions, including the Indian case of *Karnail Singh*³⁰. In *Karnail Singh*, the court cites the Declaration and other scholarly contributions to conclude that “the entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Haryana are hereby declared persons in *loco parentis* as the human face for the welfare/protection of animals”. A cursory view of the legal advancements for the non-humans indicate the benefits arising from cross-disciplinary influences and research.

The above-mentioned seven conditions establish the grounds for asserting the interests of the non-human entities in law.

III. Non-Human Life and Dignity

The factors that drive a legal system to pursue reforms can be multi-fold and complex. In the case of the dignity of human beings, for instance, authoritative international instruments like the Universal Declaration of Human Rights, 1948 speak of human capacity, potential, and worth, which should be the basis for legal rights to prohibit and prescribe codes of conduct. Further, the UDHR, in its Preamble, refers to the inherent dignity of all members of the human family as the foundation of freedom, justice, and peace in the world. The essence of the UDHR stands tall in the text of various national and international documents that speak of respect and protection of human dignity.

A question as compelling, and on the lines of human dignity, concerns the worth and potential of the non-human life forms. Comparative research and studies (the Cambridge Declaration, for instance) indicate that because the essence of life reflects in many non-human life forms, human beings are not the only species that can be designated as “living”, “existing”, and “worthy”.³¹ In this context, a host of questions were also posed on the

²⁹ Animal Ethics, Five Years of the Cambridge Declaration on Consciousness (2017). Available at Five years of the Cambridge Declaration on Consciousness — Animal Ethics (animal-ethics.org).

³⁰ *Supra* note 6.

³¹ Deepa Kansra, Dignity, “A regenerative idea”, *ILI Law Review* (Winter 2016).

occasion of the seventieth anniversary of the UDHR. Should the “UDHR be recast for a time in which new technologies are continually altering how humans interact, and the legal status of robots, rivers, and apes alike are at times argued in the language of rights?”³² According to Huneus, a lot of these questions can no longer be cast aside, because lawyers are raising these arguments in courts and other legal venues and there is a blossoming field of post-humanism in the humanities in dialogue with the social sciences and even natural sciences, and an important national security law debate on autonomous weapons (or killer robots) and humanitarian law.³³

With great vigor, the interests of the non-human category have informed several constitutional and statutory reforms. For instance, in 2017, the Te Awa Tupua (Whanganui River Claims Settlement) Act of New Zealand, declared the Whanganui River as a spiritual and physical entity, a living whole. Another example is the Uganda National Environment Act, 2019, which under Section 4 provides the rights of nature. Under clauses (1), (2), and (3), the Act provides, “nature has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution. A person has a right to bring an action before a competent court for any infringement of rights of nature under this Act. Government shall apply precaution and restriction measures in all activities that can lead to the extinction of species, the destruction of the ecosystems or the permanent alteration of the natural cycles”.

IV. Advocacy For Reforms

Litigations instituted before domestic courts have also been complemented with the adoption of academia/expert-led declarations and instruments. Most of them project a set of values that are expected to shape the legal systems of the world. A few notable ones are the Charter on the Law of the Living (2021)³⁴, the Toulon Declaration (2019)³⁵, the Universal Declaration of Rights of Mother Earth (2010)³⁶, Collective Thinking on the Rights of the Pacific Ocean, 2018 (Ocean Rights Statement hereinafter)³⁷, Vienna Manifesto on Digital Humanism³⁸, etc.

³² Alexandra Huneus, Human Rights and the Future of Being Human, Vol. 112 *American Journal of International Law* (2018).

³³ *Ibid.*

³⁴ United Nations Harmony with Nature Programme, The Charter on the Law of the Living, 2021. Available at https://www.univ-tln.fr/IMG/pdf/charter_on_the_law_of_the_living_-_eng.pdf

³⁵ Declaration of Toulon, 2019. Available at <https://www.univ-tln.fr/Declaration-de-Toulon.html>

³⁶ Available at <https://declarationproject.org/?p=1164>

³⁷ Collective Thinking on the Rights of the Pacific Ocean, *Study on rights of the Pacific Ocean*, New Zealand (2018).

³⁸ Available at <https://dighum.ec.tuwien.ac.at/dighum-manifesto/>

In totality, the contributions of the above-mentioned statements can be summarized as follows;

- They emphasize the need for greater advocacy for reforms of the non-human entities in legal systems around the world.
- They emphasize the need for entity-specific rights, meaning culturally appropriate rights supported by scientific research and shared knowledge.
- They emphasize the need for recognizing the embeddedness of human interests in the non-human world, making both the human and non-human worlds entwined through a shared destiny.
- They emphasize the need for recognizing the dependency of human rights on the rights and welfare of the non-human entities.

On the subject of legal reforms, the Charter on the Law of the Living makes a direct reference to the needed reforms within legal systems and the change in “legal dynamics” for the non-human world.³⁹ Section 3 provides, “the interests of human beings and of other animals, as well as the integrity of ecosystems, must be prioritized. Said interests may only be affected exceptionally, measuredly and extraordinarily.” Under Section 6 it provides, “it is necessary to widen each legal system, based on the criteria of the living, as well as the notion of natural persons, to include the above mentioned non-human persons. Specific and appropriate positive rights, different from those attributed to human persons, must be recognized with respect to the principles arising from this Charter”. Section 6, in particular, insists on the development of specific and appropriate rights, as distinct from the rights applicable to the humans. In this regard, The Ocean Rights Statement writes of “a transformational shift” that is needed in the behavioural, societal, legal, governance and economic relationships to live in harmony with the Ocean.

The Toulon Declaration concerns the legal personality and rights of animals. It states, “in most legal systems, animals are still considered as things and lack legal personality, which alone can confer on them the rights they deserve as living beings. Believing that today, the law can no longer ignore the progress of science that can improve the consideration of animals, knowledge that has been largely underused until now. Finally, considering that the current inconsistency of national and international legal systems cannot support inaction and

³⁹ *Supra* note 34.

that it is important to initiate changes so that the sensitivity and intelligence of non-human animals are taken into account.”⁴⁰

On the requirement of specific rights for the non-human world, the Ocean Rights Statement provides, she (oceans) is an entity, with rights including but not limited to the right to exist, thrive and evolve, the right to integral health, the right to be free of pollution and a healthy, functioning climate system, the right to restoration and regeneration, and to continue her vital functions and cycles.

On a shared destiny and intricate bonds of the human and the non-human world, the Declaration of Mother Earth in its Preamble provides, “considering that we are all part of Mother Earth, an indivisible, living community of interrelated and interdependent beings with a common destiny. Gratefully acknowledging that Mother Earth is the source of life, nourishment and learning and provides everything we need to live well. In addition, the Statement on the Rights of Oceans provides, “we are the Ocean and the Ocean is us. The Ocean is our source of life, our family and blood. All Earth’s systems and beings are related and interdependent. The Ocean has authority (mana) and life force (mauri)”. The Charter on the Law of the Living speaks for “sustainable, reasonable and balanced development for present and future human and non-human generations”.

On the dependency of human rights on the rights of the non-human entities, the Ocean Rights Statement provides, “we have a responsibility and obligation to conserve, protect and defend the rights of the Ocean; the rights of past, present and future generations of all beings rely on respect for the rights of the Ocean” The Declaration of Rights of Mother Earth affirms the same. It provides, “to guarantee human rights it is necessary to recognize and defend the rights of Mother Earth and all beings in her and that there are existing cultures, practices and laws that do so”.

The above-mentioned Statements are commonly cited for advocacy and furthering the cause of legal rights for non-humans.

V. Theoretical Frames

In addition to the academia-backed statements, one must also look at A few theoretical frames that establish the boundaries for making claims for non-human entities. These include multi-species justice, post-humanism, and digital humanism.

⁴⁰ *Supra* note 35.

In the article *Multispecies Justice: Theories, Challenges, And A Research Agenda For Environmental Politics*, the authors make a case for re-thinking the notions of justice to respond to the “destruction of multi-species lifeways”.⁴¹ The authors write, “rethinking the subject of justice moves attention from the fiction of individuals to the actual ecological array of relationships that sustain life. As humans and other beings surround, infuse, and support each other, justice for any cannot be divorced from MSJ for all.”⁴² Further, it is through the prism of the “multi-species justice” (MSJ) concept that the false assumptions about the supremacy of human beings can be addressed and countered. In this regard, Plunkett states that influential works speak of the ethical status of the non-humans and how it matters in terms of accounts of justice. This is because of the combination of two facts; first, the fact that non-human animals are radically marginalized in much theorizing in political philosophy, and second, the fact that many non-human animals in our world are having a lot of bad things happen to them.⁴³ The idea of MSJ responds to the question about the non-human i.e. “what about those non-subjects, such as animals or natural living entities—habitats and biotopes—which cannot even fight for recognition, whose interests do not appear recognizable, and which are not eligible for consideration in the law’s already institutionalized processes and structures of representation? How can those who have no voice be heard? Can those who have not yet assembled find justice as well?”⁴⁴ According to Ulmer, the aim of MSJ is not to remove humans from research, but to deemphasize the focus on humans and recognize that non-human elements are always already present. And “knowledge frameworks that privilege the human at the expense of the more-than human could therefore be viewed as incomplete, as well as a potential injustice to non-human entities”.⁴⁵

The second frame, posthumanism, stands as a response to humanism. Humanism, according to Figdor, “situates the human species as distinct and unique from the non-human categories in terms of their cognitive capacities (superior and advanced), ability to self-reflect, reason, and communicate through language. These abilities forge the basis for developing a system of respect for all those that are humans”⁴⁶ In response, posthumanism speaks of the “human

⁴¹ *Supra* note 23.

⁴² *Id.* at 120.

⁴³ David Plunkett, Justice, Non-Human Animals, and the Methodology of Political Philosophy, *Jurisprudence* 6 (2016).

⁴⁴ Malte-Christian Gruber, Why Non-Human Rights? 32:2 *Law & Literature* 268 (2020).

⁴⁵ Jasmine B. Ulmer, “Posthumanism as Research Methodology: Inquiry in the Anthropocene”, *International Journal of Qualitative Studies in Education* 3 (2017).

⁴⁶ Carrie Figdor, The Psychological Speciesism of Humanism, 178 *Philosophical Studies* 1545-1569 (2021).

beings' inextricable embeddedness in biological and technological worlds."⁴⁷ Under posthumanism, *life* is viewed as interconnected, relational, and transversal, it then can be positioned as an interactive and open-ended process.⁴⁸ Gruber writes, today's "posthuman" humanism seeks dignity of the living, and that is the only message of the idea of human rights that we still ought to dream of'.⁴⁹

The third theoretical frame, digital humanism, speaks about the blurring of boundaries between humans and technology/AI. The Vienna Manifesto on Digital Humanism speaks of digital humanism as the humanism which "describes, analyzes, and, most importantly influences the complex interplay of technology and humankind, for a better society and life, fully respecting universal human rights." On this, writes, digital humanism, means an update of humanism-of the image of man- in the age of digitalization.⁵⁰ It is also about "preserving the value of human dignity in the context of the digital society, understood as the recognition that a person is worthy of respect in her interaction with autonomous technologies."⁵¹

A social robot, for instance, is "an autonomous entity that interacts and communicates with humans or other autonomous physical agents by following social behaviors and rules attached to its role." Digital humanism in this context would suggest that social robots must understand social contexts i.e. understand users' behaviour and emotions, and respond with appropriate gestures, facial expressions, and gaze. The challenge is to provide algorithms to sense, analyse situations and intentions, and make appropriate decisions."⁵² These ethical considerations about the human and machine interactions would be pressing in the times to come, as the demands for social or assistive robots increases. The perspectives on digital humanism consider the vast landscape of possibilities being created by human and machine interaction.

VI. Conclusion

While there is great interest in the legal rights of the non-human, the critique of such developments is not far behind. A diverse set of reasons have been advanced to caution about

⁴⁷ *Supra* note 23 at 123.

⁴⁸ *Supra* note 45 at 6.

⁴⁹ *Supra* note 44 at 269.

⁵⁰ *Supra* note 20 at 35.

⁵¹ Paola Inverardi, "The Challenge of Human Dignity in the Era of Autonomous Systems", in Hannas Werthner, Erich Prem, Edward A. Lee and Carlo Ghezzi (eds.), *Perspectives on Digital Humanism* 25 (Springer 2022).

⁵² Nadia Magnenat Thalmann, Social Robots: Their History and What They Can Do for Us", in Hannas Werthner, Erich Prem, Edward A. Lee and Carlo Ghezzi (eds.), *Perspectives on Digital Humanism* 13 (Springer 2022).

the law's turn towards conferring rights to the non-human. Some would ask whether the law needs new theories? Are there any limits to the application of the juristic/legal person concept? Is it viable to extend the reach of existing frameworks like human rights to the non-human? What are the challenges in the way of the rights of the non-humans?

In the case of the rights of machines, caution is exercised. Take the example of the Statement on *Artificial Intelligence: An Evangelical Statement of Principles* (2019)⁵³. The Statement poses a theological challenge to the growing interests in the entwining of AI and human life. The Statement provides, "while technology can be created with a moral use in view, it is not a moral agent. Humans alone bear the responsibility for moral decision making". Under Article 12, it states, "we deny that AI will make us more or less human, or that AI will ever obtain a coequal level of worth, dignity, or value to image-bearers. Future advancements in AI will not ultimately fulfill our longings for a perfect world. While we are not able to comprehend or know the future, we do not fear what is to come because we know that God is omniscient and that nothing we create will be able to thwart His redemptive plan for creation or to supplant humanity as his image-bearers" (Article 12).⁵⁴ According to Richards, the Evangelical Statement is sceptical that computers can become conscious moral agents (Article 3). The Statement also explores the relationship of AI to medicine, sexuality, work, war, public policy, and the future.⁵⁵

In the context of rights of nature, Tanasescu writes, "the underlying assumption is often that all of these cases are fundamentally similar – part of a nature rights movement – and that they are (at least in theory) a radical solution to environmental degradation. But practice has not yet proven that these kinds of rights are a good mechanism of environmental protection. Instead, it has demonstrated that these rights are of various kinds, have appeared in different contexts, and embody tensions and contradictions that predate them."⁵⁶

Many have also spoken of a research-informed approach to what the moral and legal requirements for each of the entities are. Like it was in the case of ending animal suffering (Animal Ethics).⁵⁷ The Charter on the Law of the Living also speaks of "specific and

⁵³ <https://erlc.com/resource-library/statements/artificial-intelligence-an-evangelical-statement-of-principles/>.

⁵⁴ *Ibid.*

⁵⁵ Jay Richards, *New Evangelical Statement on AI is Balanced and Well-Informed*, Mind Matters News (2019). Available at <https://mindmatters.ai/2019/04/new-evangelical-statement-on-ai-is-balanced-and-well-informed/>.

⁵⁶ *Supra* note 7.

⁵⁷ *Supra* note 16.

appropriate” rights for the non-human as different from those for the human category.⁵⁸ The critical views, like those advanced by, make it sort of mandatory to understand the diversity in approaches and arguments for rights of the non-humans.

In terms of laws’ evolution, the new theoretical frames like multispecies justice. Posthumanism and digital humanism make way for re-imagining representation, democracy, and institutional governance.⁵⁹ The “non-human” category also introduces a turn towards knowledge systems that have historic validity, practical wisdom, and emancipatory potential.⁶⁰ In light of the many developments cited in the paper, it is substantiated that protecting and representing the *life* and *worth* of the non-human is a great evolutionary demand that is creating many implications for legal systems across the world.

⁵⁸ *Supra* note 34.

⁵⁹ Joe Gray, Anna Wienhues, Helen Kopnina and Jennifer DeMoss, Ecodemocracy: Operationalizing ecocentrism through political representation for non-humans, Vol 3 No 2 *The Ecological Citizen* (2020).

⁶⁰ *Supra* note 7.