LEGAL STATUS OF THE POSTHUMAN: PHILOSOPHICAL AND LEGAL PRINCIPLES OF TRANSHUMANISM

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DOI: https://doi.org/10.61345/1339-7915.2026.1.11

Annotation. Transhumanism, as both a philosophical movement and an emerging social practice, poses fundamental challenges to the foundational premises of contemporary legal science. This article examines transhumanism as a philosophical and legal category, tracing its intellectual genesis from Julian Huxley's 1957 formulation through the organizational and doctrinal contributions of Max More, Nick Bostrom, and Natasha Vita-More in the 1990s, to its present-day legal manifestations in neurotechnology, genetic engineering, and artificial intelligence. The article argues that transhumanism cannot be adequately situated within the traditional framework of either natural or positive law, but instead constitutes a distinct legal problem that requires systematic theoretical elaboration. Drawing on the liberal tradition of personal autonomy, the Thomistic natural law framework, and the emerging doctrine of neurorights, the study analyses how transhumanist ideas challenge the anthropological premises of human rights law, in particular, the principles of human equality, dignity, and bodily integrity, and how legal science may respond to those challenges without abandoning its anthropocentric foundations.

The article further examines concrete legal manifestations of the transhumanist challenge: the question of the legal status of the posthuman, the privacy implications of neural implants, the unresolved liability framework for genetic modifications, and the regulatory vacuum exposed by the He Jiankui case. The study proposes a multi-level regulatory framework, spanning international, regional, national, and corporate levels, grounded in the principles of proportionality, non-discrimination, reversibility of interventions, and the preservation of legal anthropocentrism. It concludes that legal anthropology faces a fundamental choice between an anthropocentric strategy, which accommodates technologically enhanced individuals within an expanded concept of the human, and a post-anthropocentric paradigm, in which legal personhood is determined by cognitive and moral competence rather than species membership. The first strategy is assessed as more legally secure in the short term; the second as potentially more just in the longer term, though requiring a foundational reconceptualization of legal subjectivity.

Key words: transhumanism, posthuman, legal personhood, neurorights, human dignity, bodily integrity, legal anthropocentrism.

1. Problem statement.

The accelerating development of biotechnology, neurotechnology, artificial intelligence, and genetic engineering has brought humanity to a threshold that legal science has not previously been required to address: the possibility of the emergence of a being that, while originating from a human, will possess characteristics that fundamentally distinguish it from the contemporary legal subject. The concept of the "posthuman", an entity whose cognitive, physical, or emotional capacities have been so radically enhanced through technological intervention that it can no longer be adequately described by existing legal categories, poses a direct challenge to the foundational assumptions upon which modern legal systems are built.

Contemporary law operates on the premise that the legal subject is a human being endowed with inherent dignity, equal rights, and a fixed biological nature. These assumptions underpin the entire architecture of constitutional rights, civil legal capacity, and international human rights law. Transhumanism, as both a philosophical movement and an emerging social practice, systematically undermines each of these premises: if human nature is malleable, if some individuals are technologically "enhanced" while others are not, and if consciousness can be digitally replicated or transferred, then the existing legal framework loses its anthropological foundation. The question of what, or who, is entitled to legal personhood, rights, and protections becomes not merely philosophical but urgently practical.

This problem is no longer confined to speculative discourse. Neural implants already raise questions about the privacy of thought and the integrity of the human mind; algorithmic decision-making systems challenge the traditional understanding of legal subjectivity; and the prospect of digital consciousness uploading forces a reconsideration of personal identity as a legal category. The case of He Jiankui, who in 2018 conducted heritable genome editing on human embryos, exposed the absence of unified international legal norms capable of either preventing or adequately sanctioning such interventions. These developments collectively demonstrate that the legal status of the posthuman is not a future problem – it is a present one, for which legal science remains largely unprepared.

2. Analysis of recent research and publications.

The intersection of transhumanism and law has attracted increasing scholarly attention over the past two decades, though the field remains fragmented across disciplines and lacks a consolidated legal-theoretical framework. The foundational philosophical literature was established by the movement's key architects: Max More, who in his 1990 essay Transhumanism: Toward a Futurist Philosophy first articulated transhumanism as a coherent philosophical direction, and Nick Bostrom, whose historical and theoretical contributions — most notably A History of Transhumanist Thought (2005) and In Defense of Posthuman Dignity (2005) – remain the standard doctrinal reference points. Bostrom's co-authored Transhumanist FAQ and the founding of the World Transhumanist Association in 1998 provided the organizational and intellectual infrastructure upon which subsequent legal scholarship has built.

The legal dimensions of transhumanism were among the first to be addressed by Francis Fukuyama, whose Our Posthuman Future: Consequences of the Biotechnology Revolution (2002) remains one of the most cited critical analyses. Fukuyama argued that transhumanism poses a direct threat to the principle of human equality, insofar as the emergence of technologically enhanced individuals fundamentally undermines the symmetry upon which equal rights are premised – a position that has since been elaborated upon by numerous legal scholars. Philippe Jougleux, in his study Frankenstein and the Law: Some Reflexions on Transhumanism, examined the multiple legal conflicts generated by transhumanist ambitions at both the international and European levels, including tensions with the principle of human dignity as enshrined in the Charter of Fundamental Rights of the European Union.

The rights-based dimension of the posthuman question has been examined in depth by Lisang Nyathi, whose article Unveiling the Right to Self-Transformation and Self-Enhancement: Exploring Transhumanism and Its Impact on Human Rights and the Future of Humanity (Deusto Journal of Human Rights, 2024) investigates whether self-enhancement may or should be recognized as a legally enforceable right, and addresses the fundamental tension between individual self-determination and the protective function of human rights law. The broader question of how transhumanist ideas reshape the foundations of human rights, including the displacement of human nature by self-determination as the normative basis of the legal order, is addressed in a 2021 study published in PubMed: Transhumanism and Law: From Human Nature to Self-Determination as the Foundation of Human Rights.

In the domain of neurotechnology and legal personhood, the scholarship has expanded significantly following real-world developments. The constitutional amendment adopted in Chile in 2021 – the first in the world to constitutionally protect "neurorights," including mental privacy, cognitive liberty, and equal access to neurotechnology, has generated substantial comparative legal analysis, including the study by Do, Badillo, Cantz, and Spivack (Privacy and the Rise of "Neurorights" in Latin America, Future of Privacy

Forum, 2024), which documents the first judicial decision on neuroprivacy issued by the Chilean Supreme Court in 2023. The ethical and legal implications of brain-computer interfaces, including the privacy of neural data and the risks of unauthorized access to cognitive processes, are examined in the study by Cassinadri and Ienca (Neuralink's Brain-Computer Interfaces: Medical Innovations and Ethical Challenges, Frontiers in Human Dynamics, 2025).

The legal personhood of human digital twins, entities that replicate a person's identity, values, and decision-making patterns in digital form, represents one of the most novel areas of inquiry. Muhammad Zia-Ul-Haq, in Legal Personhood and Identity of Human Digital Twins (Legal Research & Analysis, 2025), raises foundational questions about whether and under what conditions a digital copy of a person could or should be granted legal subjectivity, and identifies the cascading legal complications that such recognition would entail. In the field of genetic law, the case of He Jiankui has generated a parallel body of scholarship: Shuang Liu's Legal Reflections on the Case of Genome-Edited Babies (Global Health Research and Policy, 2020) examines the inadequacy of existing national and international legal frameworks in responding to heritable human genome editing, and calls for strengthened international cooperation and binding regulatory mechanisms.

Notwithstanding the breadth of existing scholarship, a significant lacuna remains: the absence of a comprehensive legal-theoretical framework that addresses the posthuman not as a bioethical concern but as a subject of legal science in the strict sense – one that systematically examines the legal nature of posthuman personhood, the normative basis for its rights and obligations, and the institutional mechanisms through which legal systems may adapt to accommodate or regulate technologically transformed human beings. The present study seeks to contribute to filling this gap.

3. The purpose of this article is to examine transhumanism as a philosophical and legal category: to analyse its genesis and conceptual content, to identify the legal challenges it generates, and to outline approaches to addressing those challenges within the framework of contemporary human rights law.

4. Presentation of the research material.

Transhumanism as an organized intellectual movement dates back to the late 1980s - early 1990s, although the ideas underlying it have much deeper roots. The term itself in its modern meaning was introduced by Julian Huxley back in 1957, describing the transition of man beyond the limits of his own nature through the conscious application of science and technology. However, as a structured movement, transhumanism took shape thanks to the efforts of Max Mohr, Nick Bostrom, Natasha Vita-Mohr and their associates, who in the 1990s formulated its key principles and organizational basis.

In particular, Max Mohr, in his essay "Transhumanism: Towards a Futurist Philosophy" (1990), first formulated the modern understanding of transhumanism as a philosophical movement, and together with T. O. Morrow he founded the journal "Extropia" (1989) and the Extropia Institute (1992-2007). In the 1990s, "extropianism", the libertarian doctrine of overcoming human limitations through technology, came to the forefront of the transhumanist movement, and Mohr formulated its key principles in "Principles of Extropy". In turn, Natasha Vita-Mohr made an even earlier contribution: Vita-Mohr's "Transhumanist Manifesto" was compiled in 1983 and revised in 1998-2020, and she was also among the authors of the Transhumanist FAQ in the mid-1990s. The organizational design of the movement was completed by Nick Bostrom: The World Transhumanist Association (WTA) was founded in early 1998 by Nick Bostrom and David Pearce with the aim of providing a common organizational base for all transhumanist groups and interests, as well as developing a more mature and academically respectable form of transhumanism [12].

From a doctrinal point of view, transhumanism can be defined as a socio-philosophical and scientific movement that advocates the use and development of technologies that can radically improve the human condition by improving the cognitive, physical and emotional abilities of a person, as well as overcoming aging and death [2, p. 25]. B. Cummings specifies that transhumanists distinguish three types of technological influence: therapeutic (restoration of the norm), improving (exceeding the norm) and transformative (replacing the human in a person) [1, p. 218].

In the same study, B. Cummings draws attention to the fact that transhumanism in the legal context has already revealed its "tentacles" in the field of intellectual property law, and such devices as Apple Watch and Google Glass are only a prologue to the technological-biological symbiosis envisaged by the pioneers of the movement [1, p. 220]. This observation emphasizes that legal science must respond to the challenges of transhumanism today, without waiting for full technological deployment.

R. Fridmansky suggests considering transhumanism as a "unifying slogan for various cultural, political, philosophical and digital trends" that promote the ideas of development and expansion of the boundaries of the human species [4, p. 2078]. This characteristic emphasizes the fundamental ideological heterogeneity of the movement: along with liberal-progressive branches, there are conservative, religious and technocratic variants of transhumanism, which significantly complicates its legal qualification.

For legal science, the question of whether transhumanism is only a philosophical position or whether it is already acquiring the status of a legal concept is fundamentally important. It seems that the latter statement more accurately reflects reality: transhumanism forms a new legal problem - from issues of patenting genetic modifications to the "neurorights" regime and thus inevitably penetrates the legal discourse. At the same time, we believe that the legal qualification of transhumanism as a category remains debatable: it does not fit into the traditional distinction between subjective law and legal norm, between natural and positive law. Transhumanism grows out of several interconnected philosophical traditions, each of which has its own legal implications. The first and most important is the tradition of individual autonomy, reaching its roots to the liberal philosophy of J. S. Mill: a person is sovereign over his own body and mind, therefore the state has no right to prohibit him from modifying his own organism. This idea has found legal embodiment in the principle of informed consent and the right to self-determination, but transhumanism extends it to limits that raise, in our opinion, serious legal questions: can a person "consent" to irreversible modifications that will change their very ability to consent in the future?

P. Corby, in his critical analysis, reveals a deep positivist optimism at the heart of transhumanism: the conviction that scientific methods are the only reliable path to human progress, and the limits of human existence are purely technical problems to be solved [5, p. 183]. There, the author refers to N. Bostrom and J. Savulescu, who defend not just the right, but the moral duty of human self-improvement through technology - a position that in the legal dimension can be transformed into discrimination against "imperfect" individuals [5, p. 184]. M. Potrch and V. Strakhovnyk analyze the project of "moral transhumanism", which involves the improvement of human moral virtues through genetic interventions and pharmacological means [7]. These authors emphasize that a key feature of human moral consciousness is sensitivity to grounds - the ability to recognize and respond to moral arguments [7]. Technological "improvement" of moral abilities can undermine this very sensitivity or make it redundant, which from a legal point of view means the destruction of the foundations of sanity and responsibility.

Fundamentally important for legal science is the position of D. Crouch, who argues that the Thomistic theory of natural law is not an obstacle, but a guideline for evaluating technologies of improvement: natural law, unlike popular ideas, is not absolutely immutable, since it proceeds from the goods to which human nature aspires, and not from specific biological manifestations of this nature [6]. Thus, those technologies that serve authentic human flourishing could receive legal recognition even within the framework of the natural law tradition, while those that destroy man as a rational and moral being would be subject to legal restrictions.

This approach seems to be the most promising for legal science, since it allows avoiding two extremes: techno-utopian libertarianism, which removes any legal restrictions, and bioconservative denial, which ignores the potential of scientific and technological progress for the protection of human rights. At the same time, the legal regulation of transhumanist technologies requires a criterion of distinction, since natural law in its modern interpretation is capable of providing such a distinction.

The most acute arena of the clash of transhumanism and law is the sphere of human rights. The classical concept of human rights is based on certain anthropological premises: the equality of people is based on a common nature, dignity - on the immutable core of humanity, inviolability - on the inviolability of bodily integrity. Transhumanism undermines all three premises: if human nature is changeable, if some people are "improved" and others are not, then what becomes the basis of equality and dignity? [13; 14; 15].

M. Lasalle records a fundamentally important shift: due to the transhumanist influence, nature is no longer considered the basis of law, but instead, self-determination and technological possibilities are in the focus of legal discourse [10, p. 227]. This shift is reflected in new legal constructs: the right to die, the right to change gender, the right to genetically improve one's own descendants - all of them grow out of the transhumanist logic of autonomy, which denies the normative nature of natural limitations.

A special legal issue is the so-called "neurorights" - rights in the field of protecting the human brain from technological intervention, manipulation and unauthorized access. R. Fridmansky argues that the accelerated development of neurotechnologies requires the formation of a new generation of human rights - rights that protect cognitive freedom, mental privacy and psychological continuity of identity [4, p. 2080]. It should be noted that a pilot example in this area is Chile, which in 2021 adopted an amendment to the constitution protecting "neural rights" - in fact, the first such step in the world at the level of the basic law.

V. Vardan draws attention to another aspect of the legal issues of transhumanism: responsibility for the consequences of technological improvement [2, p. 28]. If genetic editing leads to unpredictable consequences, who is responsible - a scientist, a company, a state or the "improved" person himself? The gap between the pace of technological development and legislative regulation creates a legal vacuum, which is especially dangerous given the irreversible nature of some interventions.

In the work devoted to legal anthropocentrism [8], the position is defended that the key legal task is to preserve the anthropocentrism of the legal system, that is, the person as the center and goal of law. even in conditions of technological transformation. The author proposes to distinguish between transhumanism, which seeks to improve man, and techno-ontological post-anthropocentrism, which generally goes beyond the limits of man as a legal subject [8]. It is quite clear that such a distinction is important for legal science: transhumanism in a moderate version can be accommodated within the existing legal system, while radical post-humanism requires a fundamentally new legal paradigm.

One of the most controversial issues at the intersection of transhumanism and law is the question of the legal status of the "posthuman" - a subject who, as a result of technological modifications, will acquire characteristics that will fundamentally distinguish him from modern man. Already today, this problem goes beyond abstractions: neuroimplants that already exist raise questions about the privacy of thoughts; algorithmic decision-making systems - about the nature of legal personality; the possibility of digital cloning of consciousness - about the identity of a person as a legal category.

B. Cummings argues that the issue of "legal personality of the posthuman" is one of the most fundamental legal issues of transhumanism [1, p. 230]. If a person's consciousness is uploaded to a computer, will it retain the same rights? If neural data is hacked or manipulated, who is the victim and who is the subject of responsibility? The answers to these questions require a revision of the very foundations of legal anthropology.

M. Lasalle emphasizes that the classical concept of human rights of 1948 has not undergone formal changes, but its anthropological content has been significantly modified due to judicial practice and new legal concepts that grow out of transhumanist ideas [10, p. 228]. Thus, the right to personal identity is gradually expanding to the right to an identity that a person chooses and forms himself, including with the help of technology. This process occurs spontaneously, without systematic legal understanding, which gives rise to inconsistency and contradictions in the application of law. M. Filipova, K. Iliev and R. Yuleva-Chuchulain indicate that transhumanist transformations of society require an updated system of legal relations, in which artificial intelligence, cyborgs and other new subjects will become equal participants in legal turnover [3]. These authors consider the transhumanist legal worldview as a response to the objective demands of the time, although they warn against overly radical interpretations that ignore legal guarantees of human protection.

It seems that legal anthropology is faced with a choice between two strategies. The first is the preservation of anthropocentrism by expanding the concept of man: recognizing that an "advanced" person remains a person in the legal sense as long as he retains a certain core of identity and rational autonomy. The second

is a gradual transition to a post-anthropocentric legal paradigm, where legal personality is determined not by species affiliation, but by the level of cognitive and moral competence. The first strategy is more conservative and safer, the second is more radical and potentially more just in the long term. It is quite understandable that the choice between them is one of the key tasks of legal science in the coming decades.

Despite the severity of the challenges, the regulatory response to transhumanism remains fragmented and inconsistent. V. Vardan states that states react to transhumanism in extremely diverse ways: Europe relies on the precautionary principle and strict protection of privacy, the USA chooses a more liberal approach with minimal regulatory intervention, China considers transhumanism as an instrument of geopolitical influence [2, p. 30]. Such diversity can lead to "improvement tourism" - the mass movement of people to jurisdictions with the least restrictive regulation.

In the field of neurorights, the first step was the constitutional enshrining of "neural rights" in Chile (2021). Proposals for the formation of a new generation of rights protecting mental privacy and cognitive freedom have also been expressed at the level of international legal discourse [4, p. 2081]. Genetic editing of the human genome remains unregulated at the international level: the case of He Jiankui, who edited the genome of children in 2018, revealed the lack of unified international norms that could prevent or punish such actions [2, p. 28].

Therefore, to systematize the legal regulation of transhumanist technologies, it seems appropriate to distinguish several levels: international legal (in particular, principles and standards similar to the Oviedo Convention on Bioethics), regional (the EU model, based on the precautionary principle and the protection of human dignity), national (constitutional enshrining of neurorights and special legislation on human enhancement) and corporate (standards of responsible development and application of relevant technologies).

Research on posthumanist challenges to law [8] offers a key guideline: legal anthropocentrism as a principle that does not deny technological changes, but preserves the person as the unchanging goal and limit of law. This principle should become one of the fundamental ones in any system of legal regulation of transhumanist technologies. Actually, in our opinion, the legal regulation of transhumanism is at the initial stage of its formation. Therefore, the most realistic and scientifically sound approach is the gradual development of a multi-level regulatory system based on the principles of proportionality, non-discrimination, reversibility of interventions and preservation of the anthropocentrism of law.

5. Conclusions.

As a result of our research, we can highlight the following key issues.

Transhumanism is an independent philosophical and legal category that describes a set of ideas, practices and legal requirements related to the technological improvement of man. It does not fit into the traditional framework of either natural or positive law, but forms a new legal issue that requires systematic scientific understanding. The genesis of transhumanism is associated with philosophical positivism and the liberal tradition of personal autonomy. Attempts to root transhumanism in the natural law tradition seem promising for legal science, as they make it possible to distinguish between improvements that serve genuine human flourishing and those that destroy the foundations of legal personality and responsibility.

Transhumanism poses fundamental challenges to human rights law: the threat of "designated inequality," the need to form neuro-rights, and a rethinking of the legal foundations of identity and cognitive freedom. Pilot legislative decisions indicate that the legal response to these challenges has already begun, although it remains fragmentary.

Legal anthropology faces a choice between a anthropocentric strategy (expanding the concept of the human through an "improved" person) and a post-anthropocentric paradigm (legal personality based on cognitive and moral competence). The first strategy is safer in the short term, the second is potentially more just in the long term.

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