

***The Status of Robots in Moral and Legal Systems*
Review of David J. Gunkel (2018). Robot Rights.
*Cambridge, MA: MIT Press***



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Modern technology has had a major impact on today's world. Machines have entered every sphere of human life and their further proliferation, as well as development, is almost certain. Owing to advanced technology, a variety of devices are equipped with Artificial Intelligence which makes them capable of performing complicated analytical tasks. However, in response to the futuristic market demand for a humanoid friend, the focus is now placed on creating machines whose artificial intelligence can mimic the natural intelligence of a human in, e.g. social, emotional and cognitive aspects. The development of humanized AI will narrow the gap between robots and humans. What is agreed upon by the majority of researchers and scholars is that increasingly sophisticated robots will resemble human beings to a great extent. Hence, the existence of a new entity in society confusingly similar to, or even better than, a human might raise the question about the legal recognition of robots. Furthermore, taking into consideration technological and social changes, a robot may one day be recognised as a moral subject – an entity that can have rights (privileges, claims, powers, immunities). Whether this would be morally, ethically and legally justified remains an unanswered question. An in-depth analysis of this dilemma is made by David J. Gunkel in his latest work, *Robot Rights*.

The book constitutes a detailed review of existing works on the topic of robot rights. Divided into six chapters, *Robot Rights* offers an objective investigation into the subject matter, presenting different critical approaches, ideas, assertions and arguments. The first chapter entitled "Thinking the Unthinkable" defines and explains basic concepts and theories that the author refers to in the following parts of the book. The middle four chapters focus on presenting and evaluating four possible arguments for and against integrating artificially-created entities into legal discourse which are based on two affirmative statements: "Robot can have rights", "Robots should have rights" and their negations. The four modalities, which are also used as the titles of the chapters (1. Robots

Cannot Have Rights; Robots Should Not Have Rights; 2. Robots Can Have Rights; Robots Should Have Rights; 3. Although Robots Can Have Rights, Robots Should Not Have Rights; 4. Even if Robots Cannot Have Rights, Robots Should Have Rights) are constructed around the philosophical distinction between “is” and “ought” developed by David Hume. The author does not advocate for any of the possibilities – the evaluation and judgement are left entirely to the reader. The last chapter, entitled “Thinking Otherwise”, presents an alternative approach which sets a direction for further considerations.

Before entering the multi-dimensional discussion, different concepts connected with robot rights are discussed in Chapter One. First, it is essential to define what a robot is, thus the reader is introduced to a variety of definitions, from dictionary entries, through the definition by The International Organization for Standardization, to philosophers’ considerations. The undisputed influence on how robots have been defined, characterised and perceived in contemporary society has been exerted by science fiction books and films. Such a phenomenon has even earned the name of “science fiction prototyping” – the image of a robot and AI the general public share is formed by literature and cinematography. Furthermore, popular culture sets the direction for engineers and developers who want to meet the expectations of customers. An interesting point is made—that never before in the history of a humankind has a technology been depicted and described in such detail before commercial launching.

The book also provides the definition of the concept of rights, which is based on the Hohfeldian classification of incidents. The division is made into “first-order incidents”, which encompass privileges and claims, and “second-order incidents”, which include powers and immunities. Whether the rights can be granted to a given entity may be justified by applying the Will Theory or the Interest Theory. According to the former, the essential condition to become a right-holder is the ability to exercise a right, while according to the latter, it is to have an interest whose value can impose certain duties on others.

In Chapter Two, robots are categorically denied any rights. It is stated that robots are nothing more than machines or tools, no matter how sophisticated they are. People should not feel obliged to them, as machines have not been created to participate in the search for the truth, justice or beauty – concepts whose position within moral considerations is indisputable. Instead, efficiency is the main attribute of robots. Created to maximise output and minimise input, technological instruments, whether they are simple like, e.g. a toaster, or complex, like, e.g. AI, are only a means to achieve goals set by humans. The only justification for respecting robot rights is to protect a robot as the valuable property of a person. In any different situation, even in the future when robots possess human-like traits, they should not be eligible for rights. What distinguishes a technological automat from a biological human being is that the former is the product of construction; the latter is the product of evolution.

An opposing viewpoint is presented in the following chapter which states that:

“Robots are able to have rights; therefore robots should have rights” (Gunkel 2018, 79). When elaborating the arguments behind such a statement, David J. Gunkel enumerates what features make an entity eligible for claiming rights – among them are sentience, reason, consciousness, autonomy, self-agency. Many scholars agree that in the future advanced technology will allow for the creation of artificially intelligent entities with capabilities sufficiently similar to those of human beings or even exceeding the functioning of the human brain. Although the opinions presented in this part of the book envisage integrating robots into legal systems, they also notice some difficulties in assessing legal eligibility. The questions raised concern the evaluation of the features described above, the difficulty in defining and elucidating them, as well as the detection of those features in robots. The last issue is connected with the relation between simulation and the simulated – if a machine can simulate consciousness is it conscious, or “is a simulated pain painful” (Gunkel 2018, 102)? The discussion proceeds towards philosophical questions such as, e.g. is it moral to create something that can suffer?

The next two chapters refuse to advocate strongly for the necessity of granting or denying rights to robots. In Chapter Three, the scholars quoted recognise the possibility of creating robots eligible for rights, however, in order to protect humans’ well-being, the manufacture of robots equal to or greater than human beings should not occur. Robots ought to remain mere properties, instruments or tools that serve their creators. Furthermore, it would be better if designers avoid creating machines that resemble humans and trigger some kind of emotional involvement. Vulnerable customers need to be constantly reminded by the robot itself about its true nature – that it is nothing more than a machine. Much as it is logical to extend rights to non-human entities, e.g. corporations are considered by many national and international laws as legal persons with certain rights and responsibilities, according to Joanna J. Bryson “conferring legal personality on robots is morally unnecessary and legally troublesome” (Gunkel 2018, 111). Another interesting notion introduced in this chapter is the concept of robot slavery. Designed to perform dirty, monotonous and dangerous jobs for their “masters”, with no capacity to bear obligations and rights, robots fit into the position of a slave. However, taking into consideration the legal solutions applied in Roman, US or Jewish law, a slave can be held liable for wrongdoing, therefore it is subject to legal action. Yet, it is difficult to punish a machine when the punishment, such as termination, physical pain, imprisonment, does not affect it. Although the slave metaphor exists in the robot rights discourse, it only makes the situation more complicated.

The final modality described in Chapter Four opts for an opinion that although it is unlikely, at least for now, to create such an advanced entity which will demand social standing, legislators should implement some level of recognition and protection of robots. Such regulations should encompass mostly social robots, as these are the robots with which people socialize and to which they attribute human characteristics. Integrating robots into legal systems can discourage humans from violent behaviour towards these

machines. The human tendency to anthropomorphic projection influences the way people perceive robots and, as a result, robots are regarded not as they are but as they appear to be. If a person perceives a robot as a social entity, making it suffer reflects badly on such a person. Also, brutal and violent behaviour towards robots can be projected onto other human beings or living creatures. Sabine Hauert summarises the discussion with these words, “so it is really about protecting the robots for the sake of the humans, not for the sake of the robots” (Gunkel 2018, 151).

The last chapter, entitled “Thinking Otherwise”, presents a significantly different approach to the ones described in the preceding four chapters, offering the deconstruction of the conceptual configuration of the is/ought inference. The proposal relates to Emmanuel Levinas, who advocates for a stance that ethics should take precedence over ontology. In this way, morality is regarded “not as a branch of philosophy” but as the “first philosophy” (Gunkel 2018, 164). Levinas criticises Western ontology, which is based on reducing and mediating differences and heading towards the same, and instead, he proposes the “ethics of otherness”. According to this French philosopher, moral status should not be granted on the basis of previously identified shared characteristics but on the basis of the relation that one entity can forge with another. Any entity that allows for a face-to-face encounter which interrupts self-involvement is considered as “Other” and is a part of ethics. The application of Levinas’s thought constitutes a useful tool in establishing a place for robots in the moral community. The terms that regulate the position of the subject and the object of rights could be assigned through the process of encounter which occurs between a person and a robot. Although Levinas never wrote about robots, technology or robotics, his considerations can be meaningful while analysing this issue. Yet, David J. Gunkel notices some difficulties connected with the application of Levinas’s philosophy to the study of robot rights. Firstly, the ethics described by the French philosopher are exclusive to human relations. Applying his thought to robots would require reading Levinas beyond the anthropocentric restrictions of the “Other” that is presupposed to be a human being. The attempts to recognize the “Other” as different from a human person focus on things that belong to the natural world and marginalize anything artificial like, e.g. robots. Secondly, going beyond the anthropocentric boundaries can be criticized as moral relativism. On the other hand, absolutism might be limiting in ethical thinking. In between comes the notion of “ethical pluralism” which juxtaposes the set norms with their possible applications and interpretations. In this way, broadening the boundaries is not considered as relativistic but as relational, as it allows different variables to be taken into consideration, including those connected with technological development.

Robot Rights by David J. Gunkel is a book that gathers and comprehensively presents distinct opinions and arguments by various authors, scholars and researchers on the subject in question. The moral and legal standings of different kinds of robots – social, industrial, domestic – need to be defined and regulated in order to ensure successful and effective cooperation between artificial entities and humans. Modern technology has not

allowed for the creation of a robot with human-like features yet; however, the development of robotics may suggest that one day those artificial entities will be equipped with or even exceed the capabilities of a human. To many people, the necessity of incorporating robots into ethical and legal discourse seems to be extremely futuristic, distant from everyday reality. However, the purpose of *Robot Rights* is to raise awareness that, regardless of one's personal opinion on the subject, one needs to start "thinking the unthinkable", and therefore the book provides its readers with the necessary tools to understand, develop arguments, and enter into the discussion on robot rights.

References

David J. Gunkel. 2018. *Robot Rights*. Cambridge, MA: MIT Press.

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Status of Robots in Moral and Legal Systems¹

Abstract: David J. Gunkel in his latest book *Robot Rights* presents the opportunities and challenges of integrating robots into moral and legal systems. The research question asked by the author is “Can and should robots have rights”? Following the Humean distinction between “is” and “ought”, Gunkel creates four statements that either opt for or against incorporating robots into legal discourse. The four modalities group contrasting opinions developed by different scholars on the subject of the eponymous robot rights. The author provides readers with yet another alternative approach to the question of legal recognition of robots which is based on Levinasian philosophy.

Keywords: robot rights; technological development; AI; moral system; legal system; roboethics; human rights.

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