

## The Expanding Ambit of "Human": Emerging Human Rights Subjects in Contemporary Jurisprudence

Sima Hatami<sup>1</sup>, Helen Ouliacinia<sup>2</sup>

<sup>1</sup> Department of Public International Law, Faculty of Law and Political Science, University of Tehran, Tehran, Iran (**Corresponding author**). drsimahatami@gmail.com

<sup>2</sup> Department of English language and literature, University of Isfahan, Isfahan, Iran. ouliacinia.helen@gmail.com

### Abstract

The traditional anthropocentric understanding of human rights is undergoing a profound re-evaluation in contemporary legal discourse. While historically focused on the individual human being, recent developments in international and regional human rights law reveal a nascent yet significant trend towards extending rights and protections to non-human entities. This article examines the legal basis and implications of recognizing "rights of nature" and considering the human rights dimensions of artificial intelligence, arguing that these emerging subjects challenge and reshape foundational concepts within human rights law.

**Keywords:** Human, Jurisprudence, Human rights law, UDHR, Right.

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## 1. Introduction: The Evolving Subjectivity of Human Rights in the Anthropocene and Digital Age

The foundational edifice of international human rights law, meticulously constructed in the aftermath of the Second World War, has traditionally anchored itself firmly to the individual human being. The Universal Declaration of Human Rights (UDHR) (Universal Declaration of Human Rights, 1948), proclaimed in 1948, along with subsequent core human rights treaties, established an anthropocentric normative framework, centered on protecting the inherent dignity and inalienable rights of every member of the human family. This perspective, while revolutionary and vital for establishing universal standards of treatment and protection, implicitly positioned humanity at the apex of moral and legal consideration, with the natural world often viewed as a resource and technological advancements as neutral tools. Yet, as the 21st century unfolds, marked by unprecedented ecological crises and the dizzying pace of technological innovation, this bedrock anthropocentric understanding is being rigorously re-examined and, in some jurisprudential currents, actively challenged.

The prevailing global environmental predicament—characterized by climate change, biodiversity loss, pollution, and resource depletion—has unveiled the profound and often devastating consequences of human activities. This ecological interconnectedness increasingly reveals that the health and survival of human populations are inextricably linked to the well-being of the natural world. Consequently, legal and philosophical discourse has begun to grapple with a fundamental question: if human flourishing is contingent upon a healthy environment, and if nature possesses intrinsic value beyond its instrumental utility to humanity, should legal frameworks evolve to grant nature itself a form of legal standing or even inherent rights? This inquiry has given rise to the burgeoning "Rights of Nature" movement, a transformative shift in environmental jurisprudence that seeks to elevate ecosystems, rivers, and even the planet to subjects of law, rather than mere objects of protection. This movement represents a radical departure from conventional environmental law, which largely operates within a framework of human property rights and regulatory limits, and instead advocates for a paradigm where nature possesses its own enforceable entitlements.

Concurrently, the rapid proliferation and sophistication of Artificial Intelligence (AI) systems present a distinct yet equally profound set of challenges to the traditional human rights paradigm. AI, encompassing machine learning, deep learning, and advanced algorithms, is no longer

confined to the realm of science fiction but is an integral and increasingly influential force in contemporary society. From automating crucial decision-making processes in justice, finance, and healthcare, to shaping public discourse through content moderation and personalized feeds, AI's pervasive impact demands a rigorous assessment of its implications for fundamental human rights. While AI itself is a technological construct and not a rights-bearing entity in the conventional sense, its design, deployment, and operation can directly and indirectly affect human rights such as privacy, non-discrimination, freedom of expression, due process, and even the right to a fair trial. The potential for algorithmic bias, lack of transparency, and autonomous decision-making necessitates a proactive re-evaluation of accountability mechanisms and the potential for new human-centric rights to be recognized in the digital sphere.

This article posits that these two seemingly disparate phenomena—the recognition of rights for non-human nature and the human rights implications of non-human AI—are symptomatic of a broader, ongoing recalibration of the "subject" in human rights law. They both challenge the established anthropocentric boundaries by compelling legal systems to consider entities beyond the individual human as relevant to the application, interpretation, and indeed, the very *raison d'être* of human rights. While the "Rights of Nature" movement seeks to expand the class of rights-holders to include ecosystems, demanding a shift from human-centric dominion over nature to a recognition of nature's inherent worth, the AI discourse requires a focus on how human rights can be robustly protected and asserted against the potential infringements posed by increasingly autonomous and influential non-human intelligent systems.

Through an examination of recent jurisprudential developments, particularly within international and regional human rights mechanisms and pioneering national legal systems, this article will explore the legal and philosophical underpinnings of these emerging subjects. It will analyze the conceptual shifts required to accommodate such expansions, delineate the practical challenges of implementation and enforcement, and consider the implications for the future trajectory of human rights law. Ultimately, this analysis aims to demonstrate that the 21st century demands a more expansive and nuanced understanding of human rights, one that acknowledges humanity's interconnectedness with the natural world and carefully navigates the ethical complexities of its own technological creations, ensuring that the fundamental principles of dignity, equality, and justice remain robust in an

increasingly complex global landscape.

## **2. The Rights of Nature: A Paradigm Shift in Environmental Protection**

The long-standing foundation of environmental law has rested primarily on an anthropocentric worldview, where nature is largely regarded as a resource or property to be managed and utilized for human benefit. Legal frameworks have historically focused on regulating human activities to mitigate harm, chiefly to protect human health and economic interests. While this approach has offered some vital protections, it often falls short in addressing the systemic and profound ecological degradation we witness today. The inherent flaw lies in its inability to acknowledge the intrinsic value of ecosystems and natural entities independent of their utility to humankind. The burgeoning "Rights of Nature" movement directly challenges this deeply ingrained anthropocentric bias, advocating for a fundamental paradigm shift: one where natural entities possess inherent legal rights, much like human beings or corporations. This represents a profound re-imagining of legal subjectivity, moving beyond exclusive human dominion to recognize the inherent worth and legal standing of rivers, forests, mountains, and even entire ecosystems.

### **A. Philosophical Underpinnings and Indigenous Roots:**

The conceptual groundwork for granting legal rights to nature is not a novel invention but rather draws deeply from diverse philosophical traditions and, crucially, indigenous worldviews. Unlike much of Western legal thought, which historically posited humanity as separate from and superior to nature, many indigenous cultures, particularly in South and Central America, have long embraced a holistic understanding of the Earth (often revered as Pachamama or Mother Earth) as a living entity deserving of profound respect and protection. These traditions perceive humans as integral, interconnected parts of a larger ecological web, not as its masters. The legal recognition of nature's rights in countries like Ecuador and Bolivia is deeply informed by these pre-existing cultural and spiritual relationships.

From a Western ethical perspective, the idea gained significant traction through environmental ethics that critically examined and challenged anthropocentrism. Influential figures like Aldo Leopold, with his seminal concept of a "land ethic," advocated for extending moral and ethical consideration from humans to the entire land community, urging a shift in human perspective from that of a conqueror to a plain member and citizen of the land (Leopold, 1949). However, it was Christopher Stone's 1972 essay,

"Should Trees Have Standing? Toward Legal Rights for Natural Objects," that provided the critical legal impetus (Stone, 1972). Stone provocatively argued that if inanimate entities like corporations could be granted legal personhood, there was no logical or principled reason why natural objects should not. He posited that conferring legal standing on natural objects would enable their interests to be articulated and protected in court, much like incompetent humans or corporations, thereby giving nature a voice against environmental degradation. While initially met with skepticism, Stone's arguments laid the crucial intellectual groundwork for a profound reconsideration of legal subjects beyond the human.

### **B. Jurisprudential Developments and Landmark Cases Across Continents:**

The transition from theoretical discussions to concrete legal implementation of the Rights of Nature has been a remarkable journey, witnessing pioneering developments in various national and international legal systems.

**1) Constitutional Entrenchment:** The Case of Ecuador (2008): Ecuador stands as a global pioneer, being the first nation to formally enshrine the Rights of Nature directly into its national Constitution (Articles 71-74) in 2008.<sup>1</sup> This revolutionary constitutional amendment grants Pachamama (Mother Earth) the unequivocal right "to exist, persist, maintain and regenerate its vital cycles, structure, functions and evolutionary processes." Crucially, it also empowers "any person or community" to demand the enforcement of these rights on behalf of nature in court. This provision has served as a potent legal tool, invoked in several landmark judicial decisions.

*1- Vilcabamba River Case (2011):* In a pivotal early application, a provincial court in Loja ruled in favor of the Vilcabamba River, ordering a local government and a road construction company to cease polluting activities and repair environmental damage caused by road widening. The court explicitly cited the constitutional rights of the river, marking a direct application of the new constitutional provisions.<sup>2</sup>

*2- Los Cedros Protected Forest Case (2021):* More recently, the Constitutional Court of Ecuador delivered a landmark ruling in favor of the Los Cedros Protected Forest. The court affirmed the forest's rights to exist and thrive, thereby preventing mining activities that threatened its rich biodiversity. This decision reinforced the constitutional recognition of nature's rights as paramount, establishing a robust precedent for protecting ecosystems

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1. Constitución de la República del Ecuador, arts. 71-74

2. Case No. 11121-2011-0010, Provincial Court of Justice of Loja, Ecuador (2011).

from extractive industries.<sup>1</sup> These cases demonstrate the transformative power of constitutional recognition, allowing for direct judicial enforcement.

**2) Legislative Recognition:** Bolivia (2010 & 2012): Following Ecuador's lead, Bolivia adopted a legislative approach. The Law of the Rights of Mother Earth (Law No. 071, 2010) explicitly recognizes Mother Earth as a collective subject of public interest with inherent rights, including the right to life, diversity, water, clean air, equilibrium, and restoration.<sup>2</sup> This was further reinforced by the Framework Law of Mother Earth and Integral Development for Living Well (Law No. 300, 2012), which established a comprehensive legal framework for the protection of Mother Earth, including the creation of an "Ombudsman for Mother Earth" to advocate for her rights.<sup>3</sup> While different from constitutional entrenchment, these laws provide a clear legislative mandate for recognizing nature's legal entitlements.

**3) Judicial Activism and Statutory Innovation:** Colombia (2016, 2018) & New Zealand (2017): Colombia and New Zealand showcase powerful examples of judicial innovation and statutory settlements in granting rights to natural entities.

*1- Colombia:* The Atrato River Case (T-622/16, 2016): In a globally significant ruling, the Colombian Constitutional Court declared the Atrato River and its basin to be a "subject of rights." This groundbreaking decision ordered the government and relevant ministries to protect, conserve, maintain, and restore the river from the devastating impacts of illegal mining. Crucially, the Court appointed co-guardians for the river – representatives of the affected indigenous and Afro-descendant communities alongside government officials – to oversee its protection.<sup>4</sup> This judgment solidified the concept of legal personality for a natural entity, establishing a direct and enforceable legal relationship between the river and the state.

*2- Colombia:* The Amazon Rainforest Case (2018): Building on the Atrato precedent, the Colombian Supreme Court of Justice, responding to a lawsuit filed by youth climate activists, declared the Colombian Amazon a "subject of rights." The court ordered the government to develop an intergenerational pact to halt deforestation and ensure the rights of future generations to a healthy

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1. Sentencia No. 234-18-SEP-CC, Constitutional Court of Ecuador, Feb. 11, 2021 (Los Cedros Protected Forest).

2. Ley de Derechos de la Madre Tierra (Law No. 071, 2010), Bolivia.

3. Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien (Law No. 300, 2012), Bolivia.

4. Sentencia T-622/16, Corte Constitucional de Colombia, Nov. 10, 2016 (Atrato River Case).

environment.<sup>1</sup> This ruling further expanded the scope of nature's rights to an entire critical ecosystem, linking it directly to intergenerational equity and human rights.

3- *New Zealand: Te Awa Tupua Act (Whanganui River Claims Settlement) Act (2017)*: New Zealand's approach is unique, integrating indigenous knowledge into mainstream law. The Te Awa Tupua Act recognized the Whanganui River as a single, indivisible living whole with all the rights, powers, duties, and liabilities of a legal person.<sup>2</sup> This innovative legislation formalized the indigenous Maori understanding of the river, "Ko au te awa, ko te awa ko au" (I am the river, and the river is me). The river is represented by a dual guardianship model: one appointee from the Crown and one from the local iwi (Maori tribe), ensuring both state and indigenous perspectives are integrated into its legal representation and protection. This represents a powerful example of legal pluralism and reconciliation.

**4) Influence on International Human Rights Jurisprudence:** Inter-American Court of Human Rights (IACtHR): While the IACtHR has not directly granted rights to nature, its Advisory Opinion OC-23/17 on the Environment and Human Rights (2017) significantly strengthened the legal basis for such developments in the Americas.<sup>3</sup> The Court affirmed the autonomous nature of the right to a healthy environment, independent of its connection to other human rights, and crucially recognized the intrinsic value of nature itself. This opinion provides a powerful normative foundation, encouraging states in the region to adopt or strengthen laws that protect the environment, implicitly supporting approaches that acknowledge nature's intrinsic worth, beyond its utility to humans.

**5) Emerging Recognition in Other Jurisdictions:** The movement continues to gain momentum, with municipalities and states in the United States (e.g., specific counties in Ohio, Pennsylvania, Florida) adopting local ordinances recognizing rights for rivers or ecosystems. Courts in India have also, at times, granted river systems and glaciers the status of living entities with legal rights, although these rulings have faced challenges and are still evolving in their practical application (O'Donnell & Talbot-Jones, 2019).

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1. Sentencia STC4360-2018, Corte Suprema de Justicia de Colombia, Apr. 5, 2018 (Colombian Amazon Case).

2. Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (N.Z.).

3. Advisory Opinion OC-23/17, Environmental Rights and Human Rights, Inter-American Court of Human Rights, Ser. A No. 23, Nov. 15, 2017.

These diverse examples underscore the growing global recognition and experimentation with different legal pathways for nature's rights.

### C. Legal Implications and Foreseeable Challenges:

The recognition of the Rights of Nature carries profound legal implications and presents significant conceptual and practical challenges that are actively being navigated by legal scholars and practitioners.

✦ **Conferral of Legal Personality and Representation:** The most immediate implication is the conferral of legal personality on natural entities. This means treating a river, a forest, or an entire ecosystem as a legal subject capable of holding rights and, by extension, potentially duties. This fundamentally shifts the legal relationship from one of human dominance over nature to one of mutual recognition and respect. A key practical challenge is determining legal standing: who can legitimately represent the interests of a non-speaking river or an endangered forest in a court of law? The prevalent model, as seen in Colombia and New Zealand, involves establishing guardians, trustees, or custodians who are legally empowered to act on behalf of the natural entity (Margil & N. Greene, 2019). However, this raises critical questions about potential conflicts of interest, the scope of their authority, their accountability, and how to ensure their representation genuinely reflects the 'interests' or 'voice' of the natural world, rather than human interpretations.

✦ **Enforcement Mechanisms and Remedies:** Identifying what constitutes a "violation" of a natural entity's rights, and subsequently determining appropriate legal remedies, presents significant challenges. Unlike human rights violations, which often involve compensation, punitive measures, or cessation of harmful acts, remedies for nature's rights often prioritize restoration, rehabilitation, and ecological integrity. This necessitates the development of novel legal tools and mechanisms, such as mandatory restoration plans, ecological compensation funds, and even criminal sanctions for egregious violations of nature's rights. Furthermore, scientifically measuring ecological harm, assessing the effectiveness of restoration efforts, and ensuring long-term oversight add layers of complexity to enforcement.

✦ **Balancing Competing Rights and Interests:** The emergence of nature's rights inevitably prompts questions about their hierarchy and how they interact with existing human rights, established property rights, and economic development imperatives. In scenarios where environmental protection clashes with, for instance, a community's right to development or a corporation's economic interests, how are these competing claims to be balanced?



Proponents argue that nature's rights should be viewed as foundational, given that human well-being and indeed survival are utterly dependent on a healthy and functioning planet. However, striking this balance in practice requires careful judicial and legislative calibration, potentially leading to limitations on certain human activities deemed detrimental to nature. This tension is a central point of debate and litigation.

✦ **Defining "Nature" and the Scope of Rights:** Precisely defining which natural entities qualify for rights and the specific scope of those rights can be a complex undertaking. Should every tree have rights, or only entire ecosystems? At what level of degradation does a violation occur? Jurisdictions have adopted different approaches, from broad constitutional recognition of "Pachamama" encompassing all of nature, to specific legislative acts for individual rivers or protected areas. This variability reflects ongoing efforts to refine the boundaries and practical application of the concept, raising concerns about potential arbitrariness or overreach.

✦ **Global Governance and Transboundary Challenges:** Environmental issues inherently transcend national borders. The recognition of nature's rights within one country does not automatically extend to transboundary rivers, shared ecosystems, or global commons like the oceans or atmosphere. Developing international norms or agreements that embrace the Rights of Nature would require significant diplomatic effort and a fundamental shift in global environmental governance away from purely state-centric and human-centric approaches. This demands new forms of international cooperation and potentially the establishment of international bodies capable of upholding nature's rights on a global scale.

### **3. Artificial Intelligence and Human Rights: The Digital Frontier**

The rapid and ubiquitous advancement of Artificial Intelligence (AI) has ushered in a new era of profound societal transformation, presenting an unprecedented array of complex challenges and opportunities for human rights. AI, encompassing sophisticated algorithms, machine learning models, and autonomous systems, is no longer a futuristic concept but an increasingly integral and influential force in daily life, impacting virtually every sector, from governance and healthcare to commerce, employment, and public discourse. While AI systems are not, by definition, human rights holders, their design, deployment, and operation can directly and indirectly affect, reinforce, or undermine fundamental human rights. This section delves into the intricate relationship between AI and human rights, exploring both the impact of AI on

existing rights and the nascent discussions surrounding the recognition of new, "human-centric" AI rights.

### **A. AI's Pervasive Impact on Existing Human Rights:**

The deployment of AI technologies, particularly in areas involving decision-making, surveillance, and information dissemination, carries significant implications for a broad spectrum of established human rights, often raising concerns about fairness, accountability, and transparency.

**1) Non-Discrimination and Equality:** Perhaps one of the most prominent human rights concerns regarding AI is its potential to perpetuate and amplify discrimination and inequality (Article 2 UDHR, Article 26 ICCPR). AI systems learn from data, and if this training data reflects existing societal biases, historical injustices, or discriminatory patterns, the AI will inevitably learn and replicate these biases, often at scale and with increased efficiency. This "algorithmic bias" can manifest in various critical domains:

1- Criminal Justice: Predictive policing algorithms, risk assessment tools in sentencing, and facial recognition technologies have been shown to disproportionately target or misidentify individuals from racial and ethnic minorities, exacerbating existing systemic biases within the justice system (Buolamwini & Gebru, 2018). For instance, studies have revealed that certain facial recognition algorithms exhibit higher error rates for individuals with darker skin tones, leading to wrongful arrests or heightened surveillance (Citron & Pasquale, 2014).

2- Employment: AI-powered hiring tools, resume scanners, and performance monitoring systems can embed biases related to gender, age, or background, leading to discriminatory hiring practices or unfair employment conditions.

3- Credit and Housing: Algorithms used for credit scoring or housing allocation can inadvertently discriminate against certain groups by relying on proxy data points that correlate with protected characteristics, even if explicit discrimination is not intended (Eubanks, 2018).

4- Healthcare: AI diagnostics and treatment recommendations, if trained on unrepresentative datasets, can lead to misdiagnosis or suboptimal care for certain demographic groups. The lack of transparency in many complex AI models (the "black box" problem) makes it challenging to identify and redress such discriminatory outcomes, posing a significant hurdle to upholding the right to non-discrimination and equality before the law (Zubof, 2019).

**2) Privacy and Data Protection:** AI systems are inherently data-driven, requiring the collection, processing, and analysis of vast quantities of personal

data. This raises profound concerns about the right to privacy (Article 12 UDHR, Article 17 ICCPR) and data protection.<sup>1</sup>

1- Mass Surveillance: AI-powered surveillance technologies, including facial recognition, gait analysis, and sentiment analysis, enable unprecedented levels of pervasive monitoring, potentially eroding privacy rights and chilling the exercise of freedoms of assembly and expression. The potential for governments and private entities to collect and analyze intimate details of individuals' lives without adequate safeguards poses a direct threat to autonomy and personal liberty (Veale & Edwards, 2020).

2- Data Exploitation and Profiling: AI relies on extensive profiling of individuals, often without their explicit consent or full understanding, to deliver personalized services, targeted advertising, or even manipulate behavior. This raises questions about informed consent, data ownership, and the potential for intrusive and exploitative data practices.<sup>2</sup>

3- Security Risks: Large datasets used by AI systems are attractive targets for cyberattacks, increasing the risk of data breaches and identity theft, further jeopardizing privacy.

**3) Freedom of Expression and Information:** AI plays an increasingly significant role in shaping the information landscape, impacting freedom of expression (Article 19 UDHR, Article 19 ICCPR) and the right to receive and impart information.

1- Content Moderation: AI algorithms are widely used by social media platforms to moderate content, identifying and removing hate speech, misinformation, or harmful content. While necessary for combating online harms, overzealous or biased algorithms can lead to the arbitrary censorship of legitimate speech, limit access to diverse perspectives, and disproportionately affect marginalized voices (Alsenoy, 2020).

2- Personalized Feeds and Filter Bubbles: AI-driven recommendation algorithms create personalized news feeds and content suggestions, which, while enhancing user experience, can also create "filter bubbles" or "echo chambers," limiting exposure to diverse viewpoints and potentially reinforcing existing biases, thereby hindering the public's right to receive varied information (Tufekci, 2017).

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1. Council of Europe, Study on the Human Rights Dimensions of Automated Data Processing and Artificial Intelligence (2020), para. 6.

2. Office of the UN High Commissioner for Human Rights (OHCHR), The right to privacy in the digital age, A/HRC/39/29 (2018).

3- Disinformation and Propaganda: AI can be used to generate hyper-realistic "deepfakes" and automated disinformation campaigns, making it increasingly difficult for individuals to discern truth from falsehood, undermining trust in information, and potentially manipulating public opinion, thereby posing a severe threat to informed public discourse and democratic processes (Chesney & Citron, 2019).

**4) Right to a Fair Trial and Due Process:** The integration of AI into judicial and law enforcement systems raises critical questions about the right to a fair trial (Article 10 UDHR, Article 14 ICCPR) and due process.

1- Algorithmic Sentencing and Risk Assessment: AI tools are used to assess recidivism risk, inform sentencing decisions, and even predict future criminal behavior. The "black box" nature of many algorithms makes it difficult for defendants and their legal counsel to understand the basis of decisions affecting their liberty, challenging the principles of transparency, explainability, and the right to challenge evidence.<sup>1</sup>

2- Predictive Policing: AI-powered systems that predict crime hotspots or identify potential offenders can lead to increased surveillance and over-policing of certain communities, infringing upon rights to liberty and security of person without clear probable cause.<sup>2</sup>

3- Automated Administrative Decisions: AI is increasingly used in administrative decision-making (e.g., welfare benefits, immigration applications). The lack of human oversight, the opacity of algorithms, and the potential for errors or biases can deny individuals their right to an effective remedy and due process, including the right to be heard and to challenge adverse decisions.

**5) Right to Work and Social Security:** AI and automation are rapidly transforming labor markets, impacting the right to work (Article 23 UDHR) and social security (Article 22 UDHR). While AI can create new jobs, it also poses risks of job displacement, particularly for routine tasks. The rise of platform work mediated by AI algorithms can lead to precarious employment conditions, lack of collective bargaining rights, and inadequate social protections, challenging traditional labor rights and social security safety nets.

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1. Automated Criminal Justice: The Use of Algorithms in Risk Assessment, American Civil Liberties Union (ACLU) (2019).

2. European Parliament Resolution on Artificial intelligence in criminal law and its use by police and judicial authorities in criminal matters, (2021/2012(INI)).

## **B. Emerging "Human-Centric" AI Rights and Principles:**

Beyond identifying the impact of AI on existing human rights, a growing consensus among legal scholars, policymakers, and civil society organizations points to the need for specific "human-centric" principles and potentially new rights directly related to the design, development, and deployment of AI systems. These concepts aim to ensure that AI serves humanity's best interests and upholds democratic values.

**1) Right to Human Oversight and Meaningful Human Control:** As AI systems become more autonomous and complex, there is a compelling argument for a "right to human oversight" or "meaningful human control" over critical AI decisions (Dignum, 2019). This principle asserts that purely automated decision-making should not be allowed in domains with significant human rights implications (e.g., life-or-death decisions in autonomous weapons, judicial sentencing, critical healthcare diagnoses). Humans must retain the capacity to intervene, override, and ultimately be accountable for AI's actions. This right aims to prevent the abdication of responsibility and ensure human agency remains paramount, as enshrined in principles of human dignity and autonomy.

**2) Right to Explanation/ Transparency/ Explainability:** The "black box" problem of many advanced AI algorithms, where their internal workings are opaque even to their creators, directly clashes with the fundamental principles of transparency, accountability, and the right to an effective remedy (Edwards & Veale, 2017). A "right to explanation" would empower individuals to understand how an AI system arrived at a decision that affects them (e.g., why a loan was denied, why a job application was rejected, or why a particular risk score was assigned) (Zardini, 2021). This demands not just post-hoc justification but potentially insights into the model's logic, the data used, and its decision-making process. Related concepts include:

1- Transparency: Requiring information about the design, purpose, and potential risks of AI systems.

2- Interpretability: The ability to explain or present AI models in understandable terms.

3- Audibility: The capacity to examine and assess the data, processes, and decisions of AI systems. Such rights are crucial for ensuring due process, enabling challenge to adverse decisions, and building public trust in AI (Kaminski, 2016).

**3) Right to Algorithmic Fairness/ Non-Discrimination by Design:** While

existing non-discrimination rights apply, the unique challenges of algorithmic bias have led to calls for a more proactive "right to algorithmic fairness" or a principle of "non-discrimination by design." This would entail a legal obligation to ensure that AI systems are developed and deployed in a manner that proactively mitigates bias and produces equitable outcomes, especially for vulnerable or historically marginalized groups (Goodman & Flaxman, 2017). It moves beyond merely reacting to discriminatory outcomes to embedding fairness considerations from the initial stages of AI development, including careful data selection, bias detection, and regular auditing. This principle resonates with the core human rights commitment to substantive equality (O'Neil, 2016).

**4) Right to Human-Centric AI Development and Governance:** Broader principles advocating for human-centric AI development and governance are emerging. This encompasses requirements for ethical impact assessments, stakeholder consultation, and inclusive governance models that involve diverse voices in the shaping of AI policies. It speaks to the idea that AI should be developed and used in a way that respects human dignity, promotes human well-being, and aligns with democratic values, rather than purely economic or technological imperatives. This includes safeguarding fundamental freedoms, promoting self-determination, and ensuring that AI is a tool for human empowerment, not subjugation.

### **C. Regulatory Responses and International Initiatives:**

Recognizing the urgent need to address these challenges, governments and international organizations are actively developing regulatory frameworks and ethical guidelines for AI.

**1) Council of Europe:** The Council of Europe has been at the forefront, adopting Recommendation CM/Rec (2020)1 of the Committee of Ministers to member States on the human rights impacts of algorithmic systems.<sup>1</sup> This recommendation provides comprehensive guidance to member states on ensuring that algorithmic systems are developed and used in a way that respects human rights, emphasizing principles of legality, transparency, fairness, accountability, and oversight. The Council is also working on a binding legal instrument on AI.

**2) European Union:** The EU has proposed the Artificial Intelligence Act (AIA), a landmark regulatory framework that categorizes AI systems based on

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1. Council of Europe, Recommendation CM/Rec (2020)1 of the Committee of Ministers to member States on the human rights impacts of algorithmic systems (2020).

their risk level, imposing stringent requirements on "high-risk" AI systems (e.g., in critical infrastructure, law enforcement, employment, and democratic processes).<sup>1</sup> The AIA mandates conformity assessments, human oversight, transparency, data governance, and cybersecurity measures, aiming to ensure AI is "trustworthy" and rights-respecting.

**3) UNESCO:** UNESCO has adopted the Recommendation on the Ethics of Artificial Intelligence (2021), which provides a global normative instrument outlining shared values and principles for AI's ethical development and use, including human rights, dignity, non-discrimination, transparency, and accountability.<sup>2</sup>

**4) United Nations:** The UN system, including the Office of the High Commissioner for Human Rights (OHCHR), has emphasized the need for a human rights-based approach to AI governance, issuing guidance and raising awareness about AI's potential impacts on various rights.<sup>3</sup>

These initiatives reflect a global consensus that AI's immense potential must be harnessed responsibly, with robust safeguards to prevent abuses and ensure that technological advancement aligns with, rather than undermines, human dignity and fundamental freedoms. The challenge lies in translating these principles into effective, enforceable legal frameworks that can adapt to the rapid pace of AI innovation.

#### 4. Conclusion: Redefining the "Human" in Human Rights Law

The emergence of "Rights of Nature" and the pressing human rights concerns surrounding AI signify a crucial juncture in human rights law. These developments challenge the traditional anthropocentric paradigm and force a deeper philosophical and legal examination of what it means to be a "subject" of rights. While distinct in their nature, both subjects underscore the need for human rights law to be dynamic and adaptive, capable of addressing the complex realities of an increasingly interconnected world. The future of human rights jurisprudence will undoubtedly involve navigating these new frontiers, ensuring that the core principles of dignity, equality, and justice remain paramount, even as the understanding of their application expands beyond the conventional confines of the human individual.

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