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# Neither Matter Nor Spirit: The Ambivalent Substance of Digital Legal Personhood and Its Theological Antecedents

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**Abstract**
The so-called 'Right to Be Forgotten' cases have been provoked by people's desires to make their own determinations about what personal information is accessible online to others (and when, and how) in a world of data permanence. Legally at stake is how personhood is defined and defended. Thus far, European law has primarily concerned itself with the delisting of 'data subjects' from search results and the deletion or anonymization of personal information from and by search engine operators. As a result, personhood has fallen into a kind of legislative void [43] I argue that this void is engendered by an old friction between the traditional Western secularist cognitive models that have formed the skeleton of Western law and the pulsing flesh of living human subject creation that pushes back against it. At the very least, the digital immortality of our images, voices, words and more, are bringing forth a variety of aspects of our 'person.' Meanwhile, religious worldviews have long understood and made use of phenomenological ideas of human becoming and transcendence that are far more congruous with how—even modern secular—people make meaning of their lives and self-creation, and how they think of posthumous existence. Moving through and with some of the most recent thinking in philosophy, anthropology, and cognitive science, I will develop the argument that human subjectivity is not only impossible to limit to the body, but that a radicalized ecological view is the only one that can 'save' us.

**Keywords** Legal personhood · Religion · Avatars · Right to be Forgotten · Ecology · Dispositions for the soul · AI

*"'Life as a whole' […] cannot be reached as a sum total. It is never complete, nor is it even on the way to completion, since it advances to no end save its own continuation. As the generative potential of a world in becoming, life is always going on, a perpetual origination."-Tim Ingold [50: 349].*

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## 1 Introduction: The Promiscuity of Personhood

The ambiguity highlighted in the title of this essay is intended to reflect what appears to be a categorical shortcoming in the current Western legal experience regarding personhood and its online iterations. As the articles in this special issue demonstrate in various ways and across different domains, semantic and legal categories in this case personhood too often fail to adequately address the 'promiscuity among the multiple spaces of experience designed and acted out by human conduct.'[1] The concept of personhood has spurred ample ruminations for centuries, in the legal domain most notably with the invention of corporate personhood. If a corporation can be a legal person, what are the implications for the natural person? If the category is opened up in this way, then can trees have legal standing?[2] What about animals? What about robots? What about avatars?[3] Today there is much concern[4] about the possible encroachment of AI on the various domains of the natural person[5] further fueling philosophical debates on where or what the person is: in the body? In the mind? In their union? In the soul? In a series of bodies (reincarnation)? In the products or property or labor of the person? Regardless of the view sustained, for some time there has been a fair amount of consensus in theory and/or in practice that the person is more than what is contained by the body.[6] Though this is an ancient idea,

[1] *Infra* this volume, Introduction.

[2] Christopher Stone [81], originally published in 1972, was among the first important voices in a movement that has continually grown and evolved in the subsequent decades. See [11, 66] for overviews from a North American perspective. Beyond North America and particularly in South America there has been important support for more inclusive application of rights. To wit, in 2008 Ecuador became the first country to grant rights to nature. For an excellent recent overview of the state of environmental constitutionalism, see [5].

[3] In this essay I use the term 'avatar' in a broad way with reference to the blurry lines between offline and online activities and forms of being. However, the term is often used to refer more specifically to characters created within online gaming environments. Such characters are increasingly attracting legal attention. For a legal analysis that uses a science fiction television series to illustrate the legal complexities of avatars and posthuman legal personhood see [51] [Kapica]. A perspective on avatars and the issues that arise with regard to copywright and property rights more generally is offered by [40] and the references therein.

[4] One of the authors cited below quotes entrepreneur and tech leader Elon Musk who in 2017 stated in an interview that "AI is a fundamental existential risk to human civilization," [63: 3].

[5] Questions that have emerged include, 'Can and should robots have rights'? [49]. For an expanded discussion on autonomous computer algorithms upon which legal personhood has been conferred and their potential to 'greatly exacerbate the threat of artificial intelligence,' see [63]. Schwitzgebel makes a case for a category called 'debatable personhood' stating, "An Artificially Intelligent system (an AI) has debatable personhood if it's epistemically possible either that the AI is a person or that it falls far short of personhood. Debatable personhood is a likely outcome of AI development and might arise soon" [84].

[6] This is a vast topic, and this essay will only be able to dip a toe in the waters of the debate, so to speak. Views on the metaphysical makeup of the human person include trichotomism (body-soul-spirit), dualism (body-soul or body-mind), physicalism (humans as purely physical) and idealist monism (humans as purely spiritualist beings). A broad survey which concludes by sustaining the "Constitution View" is offered by Baker [6]. Philosopher Alfred J. Freddoso similarly objects to the conceptual limitations of thinking in terms of Hobbesian physicalism (or materialism) on the one side and Cartesian dualism on the other [37]. For now, I will only say that none of these appear entirely satisfactory and that a more meaningful formulation lies in new terrain beyond even the horizon of embodiment theory, but more on this further on.

our modern technologically driven societies underscore the point in new ways. From online avatars to the digital micro-tracking and storage of our interactions with technology (heartbeats, itinerary, online shopping clicks, e-book clicks, etc.), the digital immortality of our images, voices, words and more, are calling attention to a variety of aspects of our 'person.' While the material physicality of the person has in many cases been excluded from legal definitions of personhood, technological developments continue to push law to make new determinations about how people interact with and control their disseminated digital selves, a category which is itself constantly expanding. The explosion of online content created by artificial intelligence has triggered copyright issues as well as broader content creation issues. Actors concerned about their likenesses being used, manipulated, and repeatedly reused without their permission or compensation have gone on strike. Screenwriters concerned about AI-generated scripts have joined them. Most recently, novelists concerned that AI text generators have been trained by 'consuming' entire books without author consent or compensation have spoken out.[7] Might the next legal challenge be a right not to be used as fodder for AI? This could certainly have implications for legal personhood.

So far, however, personhood in connection with digital spaces has primarily been addressed by the European courts in the so-called 'Right to Be Forgotten,' cases, also known as the 'Right to Oblivion,' or even 'The Right to Be Remembered.' A person claiming this right typically seeks to control their personal online traces (in these cases online newspaper stories) by having them edited or deleted as needed to avoid stigmatization for past actions. The existential desire is to avoid being trapped within past 'selves.' What makes these cases interesting is how they shed light on the continuum that is personhood. The more the online and offline domains blur, the more obvious it comes that each person's past, present and future selves are not isolatable 'things' or even autonomous moments but rather potentialities, 'becomings,' relational continuities. Unsettling the category of legal personhood is necessary to making human agency and fluidity (including between the material body and the person) a more central consideration when shaping law. The right to be forgotten controversies shed light on unexamined questions of how personhood is actually forged. When this circumstance is ignored and the decision making is left to corporate technology players (e.g., Google), the law risks producing deeply incongruous solutions that can overwhelm the possibilities of individual agency and put it at odds with its own legitimacy.

Furthermore, an examination of the questions of personhood can be deeply enriched by considering the religious dimension of legal experience, for at least two reasons. The first is that the major religions have from their beginnings offered profoundly relational understandings of the human individual which connect it both to divine entities and to fellow humans, defining what the human person is in complex ways. The metonymical and metaphoric understandings of human body/mind/spirit in religious traditions offer analogies that are germane to modern concerns of personhood. Second, today's digital manifestation of legal personhood

[7] On actors being 'scanned' by technology without compensation, see [76]. On the discontent generated by the way chatbots are trained, see [38] and on the recent writers' strike see [1].

is inescapably informed by antecedent theological distinctions which were, in a sense, lost in the rubble left behind by historical secularizations. Regaining awareness of these cultural/historical connections can help unmask the conceptual patterns underlying current notions of legal personhood and its original teleological axes. When viewed anthropologically, religious understandings are not so distant from many of the axioms we take for granted today, even in technically mundane contexts.

Another relevant resonance that is perhaps unexpectedly acute can be found between religious perspectives of personhood and phenomenological understandings emerging from cognitive science. I would like to argue that while there is compelling research being done on embodiment theory that contributes to new interpretations of distributed personhood and its meanings and possibilities (which I will highlight below), in some ways religious cosmologies have long anticipated the conclusions being reached today in scientific research. In a post-Cartesian landscape (or laboratory) it may seem revolutionary to discover that the impulses that drive human action are inescapably relational even at the cerebral level (mirror neurons),[8] and understanding how these processes take place is undoubtedly vital to scientific development across a range of fields. From a humanistic/philosophical perspective, however, the idea that nature and culture are one and the same, and that from this perspective the line between the material and the immaterial dissolves, is not new. The 'transcendental' is not so distant from these cognitive explorations nor from the ways in which everyday people conceive of their lives and actions. In any case, there need not be any conflict among these views. Indeed, considered together they may help reconnect the 'self' to the 'citizen' inside new conceptions of personhood that, at least, include life online and offline, throughout its iterations, and life after bodily death. Expanding, enhancing, and reconfiguring the way we consider the category of personhood could help better confront the contemporary challenges presented by the virtual dimension of human experience. 'Ecology' is a word much in vogue at the moment, and its inherently relational quality may be precisely what is needed to improve our concepts and therefore our possibilities for protecting the freedom to flourish in the domain of personhood.

## 2 Legal Review: The Right to Be Forgotten Cases in Europe

Before continuing to develop the argument regarding personhood reconsidered in connection with, among other things, religious conceptions, I believe it is useful to first provide, as background, a brief state-of-the-art review on legal personhood in the courts. The case that is considered to be a kind of groundbreaking starting point for the protection of the right to be forgotten in Europe is the 2014 Court of Justice of the European Union (CJEU) decision *Google Spain SL, Google Inc. v Agencia*

[8] Vittorio Gallese has researched and written extensively on these advances for years. For a recent and accessible explanation of both mirror neurons and embodied simulation, see [39].

*Española de Protección de Datos.*[9] Central to the case was the question of who is responsible for managing outdated personal information appearing online: the media outlets publishing the information, and/or the Internet search engine operators who index said information. The case specifically concerned property auction notices for the recovery of social security debts that were still available on a newspaper's site 16 years after the fact. These notices reflected a delinquency on the part of the debtor that he argued was no longer an accurate reflection of his financial status and which he wished expunged from the online record. The CJEU based its decision on the protections offered by Articles 7 (Respect for Private and Family Life) and 8 (Protection of Personal Data) of the European Charter of Fundamental Rights, ruling that while the newspaper had a right to maintain the data as a matter of historical fact, Google must prevent the page from coming up in its search results.

The English rendition of the Court decision is, to say the least, laborious. Three of the four points of the judgment are dedicated to interpreting certain articles of Directive 95/45/EC which define what the free movement of data is, what processing of personal data is and who can be said to do it (search engines), as well as what it means to oblige a search engine to remove information from a list of results. Only at the fourth point is the plaintiff mentioned (as 'the data subject'), and here we learn that this subject may request the removal of his information without proving that the information requested for delisting/de-referencing causes prejudice, and that this right (protected by Articles 7 and 8) overrides both the economic interests of the search engine as well as the public's interest in the information. There is an exception, of course. The data subject's fundamental rights could potentially be interfered with if the general public were to have a "preponderant interest" in access to information on the subject "on account of its inclusion in the list of results." This interest could be sparked by particular (unspecified) reasons, "such as the role played by the data subject in public life." In short: if you are famous/interesting to the public in some way and therefore links to your information are compelling to said public, you may lose your rights to control your information. Earlier in the document, the judgment also emphasizes that the concern is over information that is "inadequate, irrelevant or no longer relevant." In keeping with the conception of the person at issue as a 'data subject,' the ruling addresses data understood as *facts*, steering clear of the murky waters of defamation, reputation, psychological damage and other such vagaries. The CJEU thus ruled that a person can require search engines to put up a curtain in front of her outdated/inaccurate information as long as this information is not overly desirable to the public. De-listing, or de-referencing can and should take place when requested, and search engine operators should do it.

Though the right to be forgotten is nearly always associated with concerns about social stigmatization resulting from the unwanted spread of personal information, in this case online presence or personhood are not examined in any depth; concern is limited to outdated financial facts. The Court's use of the term 'data subject' demonstrates an almost non-human view of the person, whose information is

[9] [49] provides a general overview of the case and its implications. An analysis that asseses this case from a human rights based perspective is offered by [36], while [86] provides an interesting overview from an American perspective.

accessible (or not) according to the public's potentially preponderant interests. In the international case law, this positioning of subjects and values operates as a sort of opening gambit. The terms are these. The person is a data subject. The public (as defined in the case by the Court) decides to what extent it is—or is not—compelled to override the subject's interests. The service agent, here the search engine operator, subsequently has a limited requirement to remove links to outdated information. The story does not end here, however.

Personhood in the shape of the right to be forgotten reared its head again one year later in 2015, when in *CNIL v. Google,* the CJEU was asked to rule on the *territoriality*[10] management of online personal data. If search engines are required to remove outdated personal information, must they do so globally? Or can they continue to de-reference European subjects' information only within European domain names, e.g., Google.fr? The court ruled in favor of territorial specificity, but the ruling nevertheless left the door open to the legality of a global enforcement, under the right circumstances. In the final text of the judgment, the presence of the person whose information is at issue again recedes behind the search engine's newly clarified obligation to, "effectively prevent or, at the very least, seriously discourage an internet user conducting a search from one of the Member States on the basis of a data subject's name from gaining access, via the list of results displayed following that search, to the links which are the subject of that request." The effect is to move further still from the concerns of online personhood, since the object of protection is now 'links' accessed through European search engines. Responsibility is placed squarely on the shoulders of search engine operators: "…it is for the search engine operator to take, if necessary, sufficiently effective measures to ensure the effective protection of the data subject's fundamental rights." [11]It bears repeating: the Court tasked Google with fundamental rights protection.

A few years later, another case followed which better demonstrates the issues at the heart of Right to Be Forgotten cases, namely, *M.L. and W.W. v. Germany.* The case was ultimately decided by the European Court of Human Rights (ECtHR) in 2018, but the legal battle commenced long before. The plaintiffs, two German half-brothers, were convicted in May 1993 for having murdered a popular German actor. Both plaintiffs were sentenced to life imprisonment but were subsequently released on probation 14 years later in 2007 and 2008 respectively. At the time of their release, they sought legal remedies seeking anonymization in their media coverage (specifically a radio website as well as weekly magazine and a newspaper).[12] The brothers were 54 and 53 years of age at the time they were released and were presumably attempting to begin their lives anew after more than a decade in prison. Their request was not so much to be forgotten as to be disassociated from their past. Both the initial court case and the appeal were decided in their favor, with judges

[10] The case that put territoriality at the center was that of *Ewa Glawischnig-Piesczek v. Facebook Ireland Limited* which I have previously addressed [89] and will touch on below. See also [73].

[11] Para. 70 of the judgment.

[12] The English language press mainly focused on the brothers' 2010 lawsuit against the American online encyclopedia Wikipedia who agreed to remove the their names from the German-language portal, but not from the English language portal.

determining that the plaintiffs' interest in no longer being confronted with their past actions many years after their conviction prevailed over the public interest in access to that information. The radio station, however, appealed once more and the Federal Court ruled in its favor. The judgment was made on the grounds that the station's right to freedom of expression in serving the public's desire for information was the more important concern. In 2010 the case reached the ECtHR with the plaintiffs arguing that their right to private life had been infringed. Eight years later, the ECtHR's decision confirmed the German Federal Court's ruling, denying the plaintiffs' request for anonymization. The ruling emphasized that the public right to personal information was, in the balance, more important than the right for the plaintiffs to attempt to re-construct their lives.

The first contrast with the previous two cases to note is that in the ECtHR judgment, the subjects of the case are not referred to as *data subjects* but rather *applicants* as is the norm for the Court; this seems appropriate, as the case is very much involved with the specific behavior of the plaintiffs before, during, and after the many court proceedings. In fact, one of the key points supporting the judgment was that after exhaustive attempts to re-open the criminal proceedings against them, in 2004 the plaintiffs delivered documents to the media and asked for their assistance, inviting journalists to keep the public informed. The Court felt that since the plaintiffs had previously asked for media coverage, "less weight was to be attached to their interest in no longer being confronted with their convictions through the medium of archived material on the internet." Also in contrast to the prior cases, search engines are secondary to the substance of the case since, per the Court, they merely amplified the distribution of information published by the media whose freedom of expression is central. Finally, in this third case the public is no longer a theoretical possible interest, but rather sits at the heart of the decision insofar as it is the public interest that is cited as the primary motivator for the entire decision. According to the ECtHR, the German Federal Court, "emphasised that the public had an interest in being informed about a topical event, and also in being able to conduct research into past events," and also reiterated that "one of the media's tasks was to participate in creating democratic opinion, by making available to the public old news items that were preserved in their archives."[13] Not only is media coverage privileged, it is also directly linked to *democracy*.

This third case brings us to the end of a kind of trajectory: the plaintiffs' interests in controlling their online visibility are assessed within a social context rather than buried under legal technical language; search engine operators are no longer the protagonists; the public interest interpreted and held up by the Court comes first. Nevertheless, this ruling (and the two previous ones) all sidestep the issue of the relationship between a person's online presence/digital data and the embodied earth-bound person. Freedom of the press and freedom of the public to information are all called upon (in the name of democracy, no less), but the ideas that undergird rights such as the Protection of Personal Data and the Right to Privacy have to do with the development of the *person*, with having the social space and capacity to live in the manner one chooses, and these are wholly absent in the judgments. While there is an

[13] *M.L. and W.W. v. Germany* available at: https://hudoc.echr.coe.int/eng?i=002-12041

increasing scope of interests assessed over the course of the cases, the sociological core inside the concept of a right to be forgotten remains largely ignored. Forgetting, furthermore, is perhaps a misnomer. With the Right to be Forgotten, the person seeks to determine the development of their life in an autonomous way, without being perpetually or periodically stigmatized as a consequence of a specific action performed in the past. The plaintiffs in all of the cases were driven to seek protection because they felt that the version of them being presented and distributed online was not compatible with who they were and the lives they wished to lead at present. This is especially evident in the last case. There was little likelihood that the crimes of the plaintiffs would be forgotten any time soon. But after having served their sentences and emerged from prison at the ages of 53 and 54, the men could potentially have commenced new lives, something which is part of the basis of legitimacy for a reformatory penal system. Eleven years later when the courts issued the final judgment against them, this potential would have been diminished if not extinguished, particularly if measured against the lifespan of the online information about the plaintiffs, which will likely long outlive them. The etymology of 'reform' is self-evident; a person who is 'reformed' is meant to be corrected, improved, made new. Even if we look at incarceration as punishment rather than reform, such a structure is meant to inflict retribution for an offence, which however, has an end date, a point of closure. Once the time has been served, the punishment is concluded. Regardless, in most penal systems there is at least in theory the possibility for the making of a life after prison.

There is, certainly, an obvious difference between this case and the others, and that is the severity of the crime from which the plaintiffs wish to be distanced. There is an unmistakable indignation perceptible in the English-language press coverage of the various lawsuits which uniformly refers to them as 'murderers' or 'killers.' The sentiment is clearly that the plaintiffs are morally reprehensible people who are adding insult to injury by seeking to impose censorship on the free press and edit history.[14] The Court, for its part, does not comment on the morality of the plaintiffs, but does cite journalistic freedom. Indeed, in the judgment the media is tasked with "creating democratic opinion," which could be interpreted in various ways but surely involves influencing public opinion about the plaintiffs. The court also cites the importance of maintaining the accessibility of news reports acknowledged to be lawful.[15] This supports an argument frequently made against Right to be Forgotten claims that the "integrity of history"[16] must not be compromised. But what about the integrity of the person? One may fully agree that people convicted of murder

[14] Outraged headlines include: "Two German Killers Demanding Anonymity Sue Wikipedia's Parent,". "Convicted Murderer Sues Wikipedia, Demands Removal of His Name" and, "Wikipedia sued by German killers in privacy claim," published in the New York Times, Wired, and The Guardian, respectively.

[15] A somewhat paradoxical detail is that the anonymity the plaintiffs sought is fully supported in the Court documents themselves, since this is standard practice in legal documentation.

[16] This phrase is used here https://www.eff.org/deeplinks/2009/11/murderer-wikipedia-shhh in a brief (and somewhat superficial) comparison of some of these cases but see [20] for a historian's nuanced analysis that distinguishes between the right to be forgotten and the right to forget. For a contemporary legal reflection on the duty of memory, for example after acts of genocide or war, see [23].

should not have the right to anonymize their online presence. But to make such a claim in the absence of any identification of what an online presence is and does, and how it relates to other aspects of people's lives would seem to be at least an equally important kind of suppression. The wrong kind of anonymization, perhaps? If there were greater shared moral concern over financial debts and their importance to the record of history, would the plaintiff in *Google Spain SL, Google Inc. v Agencia Española de Protección de Datos* have lost the case? There is no sense in these cases of a coherent vision or approach to protecting personhood and no clear idea of what such a 'right' actually consists.

In the meantime, three more rulings have been handed down, two featuring media outlets at the center, the third focused on a search engine operator. In the ECtHR case *Biancardi v. Italy*, the editor-in-chief of an online newspaper based in Italy was held liable under civil law for not having de-indexed an article reporting the facts of a criminal case instituted against private individuals. The applicant alleged that under the auspices of Article 10 of the Convention, the mandate constituted a violation of freedom of expression, freedom of the press and freedom to impart information. In *Hurbain v. Belgium*, a publisher of a Belgian daily newspaper was ordered to anonymize the online archived version of an article published twenty years earlier, on the grounds of the 'right to be forgotten' of a driver who caused a fatal accident. The publisher also relied on Article 10 in his claim against the order for him to anonymize the archived version of the impugned article. Whereas previously the responsibility for de-listing contended content was given exclusively to search engine operators, in both of these cases, the ECtHR ruled that in requiring these media outlets to delist or anonymize content, no violation of Article 10 had taken place, and that in the balancing of interests, the original journalistic source (and not only search engine operators) can be held responsible for de-listing content.[17] It has been argued that this shift in approach is dangerous to freedom of the press, particularly in the case of smaller publishers for whom "the onerous burden of coping with delisting requests and litigation"[18] could be enough to endanger their business. Others have praised the Court for providing individuals with "a keen-edged sword to protect their personal data."[19] The oversimplicity of both these views will be argued further on.

The third and final recent case was adjudicated by the CJEU. In *C-460/20 TU, RE vs Google LLC,* the Court essentially continues to move in the same direction established in 2014 with case *C-131/12, Google Spain*, which assigned responsibility for de-listing information to search engine operators. Two clarifications are added by the Court in the recent case. First, that a person who seeks de-referencing must submit relevant and sufficient evidence of the request to the search engine operator who as before, is required to de-reference the respective content. Second, that search engine operators are required to review and assess the use of thumbnails and pictures

[17] Final judgment for *Biancardi* was handed down on February 25, 2022, and for *Hurbain* July 4, 2023.

[18] See [31]

[19] https://strasbourgobservers.com/2021/11/26/hurbain-v-belgium-towards-a-fairer-balancing-exercise-between-the-right-to-freedom-of-expression-and-the-right-to-privacy/.

in their results, considering the added value to the public discourse alongside the protection of personal data, which must prevail.

I am inclined to agree with the assessment that in these judgments, little is being done to address what has become something of a *legislative void*.[20] The gaping hole in the middle of these pronouncements is a lack of understanding of what the 'person,' the subject of the legal right to personhood, actually is. Nevertheless, there is something of a shift that might indicate a growing recognition that there is, in fact, a person to be considered at the core of these cases. This is perhaps most evident in *Hurbain v. Belgium*. In this case, the applicant was held responsible for a fatal car accident that occurred 20 years before the time of the legal proceedings. The claimant had served time in prison for the offence and was now working as a physician. The Court allowed that failing to anonymize the information online about the claimant's past conduct was equivalent to maintaining a 'virtual criminal record,' one which in the 'real world' had already been expunged. Here we have precisely the argument that was nowhere to be found in the German case. More specifically regarding the publisher's suggestion that instead of anonymizing the story, a 'rectification' could be added to the record, the Court states, "Such techniques are not appropriate in the context of an article reporting information that has become damaging owing to the passage of time. The techniques proposed by [the applicant] would allow the stigmatising effect of the serious offences committed by [G.], and of the sentence he has already served, to persist indefinitely and would render the rehabilitation order in his favour meaningless."[21] Again, this is precisely the point I made above regarding the purpose of rehabilitation or punishment. The Court goes on to note that the continued presence of the article online "…made knowledge of his previous conviction readily accessible to a wide audience which – since G. was a doctor – inevitably included patients, colleagues and acquaintances, and was thus liable to stigmatise him, seriously damage his reputation and prevent him from reintegrating into society normally."[22] As is, unfortunately, not uncommon in the world of law, the feeling that emerges is one of an elephant attempting to trudge through an ever-thickening field of deep mud. Slowly and painfully the wheels of justice turn: it took 13 years from the date of the claimant's first letter to the news site before the final Court order was granted for anonymization. Once again, stigmatization, if such was to occur, likely already took place, long before the Court made its final deliberation. Clearly, this is not unique to cases of personhood. However, the current deep entwinement between online and offline society brings into bas relief the inadequacy of the legislative process when it comes to issues of personhood.

In this case, the decision may have been influenced more by the apparent simplicity of the balancing of interests than by a sudden concern for stigmatization since the only request was to anonymize a 20-year-old news story. Balancing is made easier since it is difficult to substantiate the idea that anonymization would be too great a burden for the media outlet, given the nearly instantaneous editing

[20] [43].

[21] Judgement at Para. 30.

[22] *Ibid* at Para. 31.

possibilities online. Importantly, the request was made after the final effects of the criminal proceedings had been fulfilled. What would have been the outcome if instead the claimant had made the request while in jail? How important is it to keep public personal information about crimes that have already been processed? Much was made in the Court proceedings in this case (as in many Right to be Forgotten cases) about the level of celebrity or social importance of the person whose information is at issue. Again, the greater the public interest in a person, the more likely they are to experience a diminished right to privacy. If this premise is accepted—one whose ethical grounding is questionable, in my humble opinion—then it follows that a non-famous/non-interesting everyday offender should not be of inordinate interest to the public. The fact of the crime would appear to be far more relevant than the personal identity of the perpetrator *once that perpetrator has been criminally processed*. Why not anonymize the information immediately? Automatically?

If you live in Europe, you are familiar with the constant daily onslaught of requests for permission to serve cookies at every interval of interaction online thanks to the General Data Protection Regulation (GDPR), passed in 2018.[23] The regulation requires websites to obtain explicit consent from users to collect and process personal data, and since cookies are considered personal data, websites must obtain consent before placing them on a user's device. This regulation seems to have had the effect of reinforcing or empowering the older legislation, the EU e-Privacy directive (aka the EU 'Cookie Law') such that in 2022, France fined Alphabet Inc's Google $169 million and Meta Platform's Facebook $67 million for requiring too many 'clicks' for users to reject cookies. The objection of the suit was that too many users simply accepted the cookies rather than deal with all the clicks, thus easily allowing the identifiers to track their personal data. While I do not take issue with the qualification of click-streams as personal data, I would argue that it is *far less personal* than, for example, *one's name and face*. The extreme legal and monetary emphasis on keeping personal information private evidenced regarding click streams thus appears at odds, to say the least, with the extreme difficulty of anonymizing the publication of the name and face of a person who has been convicted of a crime, even after the sentence has been served. It can be inferred, in any case, that there is a lack of coherence underpinning the legislation, which may represent confusion regarding why personal data protection matters[24]. Is there a difference between a data subject and a natural person? Is there any strategic direction driving legislative developments around rights to privacy online? Who or what is the

[23] For an interesting analysis of the 2012 version of this regulation which contrasts a right to oblivion with a right to erasure, see [3] A perspective from Italy on the same issues is available from [10] and [87]

[24] Compelling observations have been made on the confusion of legal responses from the perspective of time and digital presence. The argument is that while much attention has been paid to data permanence, it can also be observed that much information does not last forever. Therefore, the author argues, what is lacking is a taxonomy that addresses "the information life cycle in terms of phases in relation to information needs," so as to "help assess the competing values at stake when one seeks to have old personal information 'forgotten.' "Crafting good policy would require and interdisciplinary apprpoach that includes input from telecommunications, information theory, information science, behavioral and social sciences, and computer sciences. [2:370].

subject of protection when it comes to 'personal data'? Is there such thing as digital personhood? I will now turn to a further exploration of these questions.

## 3 The Dispersed 'Natural Person' in Our Hyper Digital World

We are living in a historical moment in which a rich development of personhood is available to masses of people who in turn share their creation(s) with other masses of people. As the world shrinks and our ability to decide how we engage with it expands, people seek to control their self- development and the related interactions with their environments—both 'IRL' (in real life) and online—in ever-diversifying ways. Masses of people today engage constantly with the world through digital means, conducting nearly all their activities, including work activities—with the global explosion of teleworking—online. Physical locations (the erstwhile 'bricks and mortar') have faded in relevance and visibility, replaced by online names/handles for social media platforms—e.g., Instagram, 'X' (ex-Twitter), LinkedIn, Facebook—and email and website addresses. *Who* we are has increasingly little relation to *where* we are, for at least some large swathes of humanity. We might say that *personhood* trumps *neighborhood*[25]. Meanwhile, individual content creation online has increased exponentially in the last decade giving birth to new professions such as 'YouTuber,' 'TikToker' and 'influencer' for whom publicized self-creation is a fulltime job. Whether such creation is central or peripheral to our lives, who we are is also no longer limited to bodily selves in immediate social circles, but rather broadcast globally through profiles, posts, and other kinds of content which can be visual, textual or aural. This content creation *attitude* is seeping into everyday communication tools like WhatsApp, once for sending electronic text messages, now also for publishing 'stories' (photos, videos, audio, etc.). Snapchat is another messaging tool that has become much like other platforms, providing a means to publish self-generated content. The latest statistics tell us that on average, we spend 2.5 h per day on social media,[26] and while much of that time is undoubtedly spent in passive content consumption, a growing population documents and broadcasts their lives/selves at an unprecedented scale. The revolution of digitalizing essentially everything means almost no one is immune from an 'online presence,' whether desired or not.

It seems that frequently the desire for convenience outweighs outmoded concerns for privacy. I have already made reference to click-stream data, but that is only the tip of the iceberg. Today, people are giving away: video of every person that comes to their door (Amazon's Ring home security system among plenty of others), hours of voice recordings of themselves and their family members including their children (Amazon's Alexa, Apple's Siri and others), every move made at every moment online

[25] Philosopher Lucian Floridi has been addressing precisely this issue for some time. The collection entittled "Online Manifesto" that he edited includes several interesting contributions that share the premise that we are currently living a "new experience of a hyperconnected reality within which it is no longer sensible to ask whether one may be online or offline." [35:14].

[26] This statistic and those that follow are available at https://www.statista.com.

(Google and nearly every site visited now) and offline as well (Google Maps, Waze, Apple Maps, and more), browsing and shopping preferences and purchases, travel taken (daily and long distance), restaurants frequented and what is eaten there, steps taken and heartrates while taking them. Future projects at Amazon include healthcare services, prescription medicine delivery, and continued expansion into voice control for 'smart homes' (heating, lighting, security, etc.), and at least two paths that directly involve human bodies: speech-emotion detection and health insurance. Home robots may soon take body temperatures, assess symptoms, recommend non-prescription medication, and then purchase and deliver it to customers' homes. Our smartphones have our fingers and faces embedded in security loops with our finances, travel tickets, online accounts of every stripe, and more. As we pass through airports, governments systematically log our biometrics (fingerprints, faces, and in some cases irises[27]) and look inside our bodies. Regardless of one's position on consumer convenience, capitalism, surveillance, Big Data, or any of the myriad issues that arise, one thing is certain: there is a web consisting of 'microfacts' about each person that is coalescing in data. For millions of people, some aspect of our *selves* exists online and can be viewed, heard, and assessed by external agents, a circumstance that is replicating exponentially each and every day, with and without our consent.

The explosion in self-creation online mentioned earlier can be quantified. In 2022, over 4.59 billion people, more than half the global population, regularly used social media worldwide, and this number is projected to increase to almost six billion in 2027. The biggest existing social network is Meta-owned Facebook with 2.96 billion monthly active users recorded in early 2023, while its sister company Instagram had 1.21 billion monthly active users in 2021, making up over 28% of the world's internet users. By 2025, forecasts estimate that there will be 1.44 billion monthly active users, which would account for 31.2% of global internet users. Relative newcomer TikTok was estimated to count over 1.7 billion users worldwide in 2022, while YouTube counted 785 million. Musk's 'X' (formerly known as Twitter) has more than 525 million monthly active users as of 2023. What are users doing on these platforms in such massive numbers? They are posting photos and videos of every imaginable moment in their lives from birth to death, sharing a constant stream of self-reported visuals, actions, ideas, opinions, emotions, desires, predictions, and so on. People post videos of their children, reviews, critiques, videos of themselves playing video games, doing tricks, playing pranks, dancing, lecturing, preaching, and protesting. The most followed TikToker in the world as of this writing is social media 'personality' Khabane Lame with 155.8 m followers (and an estimated net worth of 15 million euros) as of March 2023.[28] His claim to fame? Videos that feature him silently mocking other people's 'life hack' videos.

These numbers and descriptors are relevant because they demonstrate how we are creating complex digital *avatars* of our 'selves' every day, whether consciously or not. The line between who and what we are and do IRL and what we do in a digitized context is fuzzy at best. Furthermore, the rapid-fire development of technologies means that what we create can be manipulated and re-purposed.

[27] https://www.nytimes.com/2021/12/07/travel/biometrics-airports-security.html.

[28] https://www.brandwatch.com/blog/most-followers-on-tiktok/.

Technological developments that allow for the manipulation of parts of self, for example voices or images, can generate 'new' personal content even after someone's death and without their consent. To take one example, 'virtual duets' were originated by the singer Natalie Cole and her producer David Foster who in 1991 'resurrected' her late father Nat King Cole to create a new version of his signature song 'Unforgettable' featuring them both. Today these technologies are known as 'synthetic media technology,' and are becoming readily accessible. In the case of music, today there are many examples of new songs 'performed' by deceased artists who voices have been re-generated by artificial intelligence. One notable example is the project, "The 27 Club," a cultural moniker that refers to several prominent pop musicians who died at the age of 27. In 2021, a Canadian organization called "Over the Bridge" sought to call public attention to the mental health issues that claim the lives of promising young musicians. To this end, the organization created "The Lost Tapes," using AI algorithms that isolated the hooks, rhythms, melodies and lyrics of four artists: Jimi Hendrix, Jim Morrison, Amy Winehouse, and Kurt Cobain. The AI trained on the music of these artists and then generated a string of new, but thematically similar songs. An audio engineer took the AI-generated musical elements and used them to compose the album.[29] The result is a new set of songs sung by artists who are no longer living. The descriptor chosen for the title, *lost*, is perhaps meant to imply that these songs *would have been generated* if the artists hadn't died before their time. It is a willed and wholly fictional future. Naturally, less thoughtful uses are taking place, such as actress's likenesses being used to generate suggestive advertising, a widely shared—and debunked—2022 video in which Ukrainian president Volodymyr Zelensky was seen telling Ukrainians to "lay down arms," as well as stories of family members receiving phone calls demanding ransom for their loved ones using deep fakes of the 'victim's' voice on the phone to solicit funds.[30]

All of this may seem a bit sensationalistic or even irrelevant to a philosophical and legal discussion of personhood. After all, aren't voices and images only fragments of our scattered digital selves, not truly constitutive of the human person? Even less email, web pages, clicks or heartbeats, or even paths traversed and tracked via satellite. Do we not all more or less agree about what a person is? For centuries and across domains, the natural person has been accepted as a bodily entity that 'contains' the non-material mind, or consciousness. That our images or voices can been 'lifted' and re-purposed in the digital era could be considered a kind of detail that does not trouble the categorical definition. The uses and abuses of our manifold information, our online manifestations, could be seen as the price of digitalization, now that these parts are so promiscuous. And yet, can we be certain that there is a clearly identifiable difference between a *manifestation* of a person and *the person*? If the traditional idea of the natural person is as a bodily entity, is this entity integral? Does it 'contain' all aspects of personhood?

[29] https://losttapesofthe27club.com/#the-album.

[30] https://theconversation.com/ai-scam-calls-imitating-familiar-voices-are-a-growing-problem-heres-how-they-work-208221.

At the most basic level, we certainly operate as if the body were static, a material entity. This idea is both ancient and so culturally diffuse that in the West, at least, it seems like simple logic. Foundational documents for the protection of people such as the UDHR simply *assume* what the law typically refers to as the natural person. The natural person of law is a bundled entity with rights, as clearly implied in Article 1: "…human beings are born free and equal in dignity and rights. They are endowed with reason and conscience…"[31] If humans 'have' rights and are 'endowed' with reason and conscience, these would seem to depend on a body that is exclusive, unique, and integral to the person. It is thus understandable that the term *human being* is used interchangeably with *person* in common language and easily encompasses a living body distinguished from an animal or plant and/or a self-conscious or rational being. Persons are living rational embodied creatures that are distinct from all other biological species (typically argued to be so because they alone can 'reason'[32]). By this logic, the human being exists a priori of its emanations into and interactions with its environment. First there is the creator, then there is the content created. First there are the selves, then there are the ensuing relationships. This view, however, is not adequate to the task of understanding human lives today, if it ever was, for many reasons, the most basic of which is the self-evident dramatic dispersal of the human body.

From organ transplants to sperm and egg donations to 'rented' wombs, never has there been more exchange of human biological components, an exchange with lasting societal effects. Family members can request sperm extraction from deceased male relatives for use in embryo creation, frozen embryos can be implanted years after the original donation was made, and genetic manipulation advances allow for multiple-party embryo creation. As a result, human generational spans are now expandable, and human genetic restraints correctable. Even setting reproduction aside, modern medicine depends on blood and organ donation to save lives, and a human body can donate as many as eight different organs.[33] Corneal transplants, skin grafts, bone marrow transplants and other tissue transplants are performed worldwide such that millions of people are literally composed of parts of other people. Among the

[31] Universal Declaration of Human Rights, full text available at: https://www.un.org/en/universal-declaration-human-rights/.

[32] Even if there is a steady stream of animal cognition research making the case that many higher order animals demonstrate 'reason' in their behavioral choices. For an entertaining glimpse of the high jinks of rascally orcas, which would appear to give strong evidence for both orca reasoning and culture, see [41].

[33] The heart, two lungs, the liver, the pancreas, two kidneys and the intestines. In 2023, surgeons in New York performed the world's first ever eye transplant. Six months after the surgery, the eye seems to be in good health, but eyesight has not been regained. Incidentally, the recipient of the graft survived a work-related high-voltage electrical accident that destroyed the left side of his face, his nose, his mouth, his left eye and half of his dominant left arm. In addition to the eye, multiple surgeries have restored his face and given him a prosthetic arm. The face and eye transplant came from a single donor (https://www.cbsnews.com/news/aaron-james-narrowly-survived-electrical-accident-receives-worlds-first-eye-transplant/). The World Health Organization estimates that over 100,000 whole organ transplants are performed every year, while the US governments puts the number of tissue transplants in the US alone at more than a million. Biological interrelatedness is, to say the least, rampant. Global statistics are available at https://www.who.int/transplantation/gkt/statistics/en/, while American statistics can be found at: https://www.organdonor.gov/statistics-stories/statistics.html.

fastest growing areas of development in this vein is the study of microbiology and the millions of bodily human bacteria that can now be exterminated, cultivated and transplanted to eliminate human deficiencies and disorders. Also to be considered is the enhancement of human performance through technical devices: artificial hearts, limbs, eyes and more, increasingly connected to the nervous system and even the cerebral cortex, not to mention chemical and hormonal treatments. If we regard technological assistance as anything external to the body that enables or assists its functioning (eyeglasses, hearing aids, speech devices, orthopedic devices, wheelchairs, etc.), the majority of humans are functionally incomplete and require technological tools to achieve a capacitated integrity[34]. Both internally and externally, our physical bodies today are perhaps more dispersed than not. There was a politically correct trend in the nineties that came up with the term 'differently abled' to replace 'handicapped.' Now many are making the case for using 'disabled' because it more accurately reflects the challenges posed by an 'ableist' society that presumes, "that there's such a thing as a standard body that possesses standard abilities."[35]As disability rights activist Emily Ladau writes in protest against the term 'special needs,'

> My needs are not 'special' just because they're not met in ways identical to the needs of non-disabled people. I need a ramp; you need steps. Not special, just facts. I need a wheelchair; you walk. Not special, just facts. Moreover, the needs of non-disabled people certainly aren't all met in the same ways. Just like every other living, breathing human being on this planet, I am a person who has needs that must be fulfilled in ways appropriate to my abilities.[36]

In these words, we can begin to see how even from a 'merely biological' point of view, there is no meaningful way to see the body of the natural person as a closed entity that exists independently of its environment. What, after all, can we say about the meaning of human lungs without the air required to fill them and set them in motion? The famously species-distinguishing-trait of language exists as a potential within humans which, however, *must be activated by interaction* with other humans. Tragic cases of neglected children demonstrate how failure to activate this communication capacity in the early years of development can lead to drastic limitations in future development of communication abilities, rendering even speech deeply deficient or even undeveloped. Humans cannot walk or move or interact with

[34] Kapica addresses legal personhood using the idea of the posthuman addressing precisely this issue of 'assisted humans.' Citing sociologist Nicolas Gane's observations about the inevitable mixing that renders 'human' and 'technology' inseparable, an interesting case is made regarding personhood: the "opening up of the human body to technological modification breaks down liberal humanism's construction of human sovereignty and autonomy, and leads to revaluation of sentience and consciousness, to the 'thinking machine' or autonomic computer program. Such definitional expansion of intelligences and autonomy has implications for understanding and mediating legal personhood, especially since posthumanism's transversalism and violation of the 'purity of human nature' challenges the humanist underpinnings of 'personhood' from which definitions of legal personhood originate." {55:615–616]

[35] https://www.cdrnys.org/blog/disability-dialogue/the-disability-dialogue-4-disability-euphemisms-that-need-to-bite-the-dust/.

[36] *Ibid.*

objects without learning to understand gravity. The muscles that hold together the human body must actively engage with an environment or else they atrophy.

Why, then, does this wrongheaded idea of an autonomous pre-existing human body that identifies the natural person persist? Plainly speaking, it is a bad cognitive habit. The dualistic mind–body habit finds its strongest roots in Cartesian thinking, which received a cultural power boost from the modern development of ever-more intelligent computing machines. As computer technology became more widespread, people responded almost as if they had been waiting for this perfect metaphor: the human brain is a computer which holds human intelligence and is independent from the rest of the body. If we follow the Cartesian proposition that our being consists of our *cogito* (intelligence), then it is only logical that organ and other bodily transplants and external assistants have nothing to do with the person. I offer this observation somewhat superficially because it is typically ingested and then reproduced superficially, in the manner of the transmission of many cultural concepts, indeed, a bad cognitive habit.[37] There is, however, an entire body of scholarship beginning in the mid-twentieth century that argues forcefully against this position and in favor of embodied cognition, or the impossibility of separating mental constructs (concepts, categories) and the performance of cognitive tasks (reasoning, judgment) from bodily aspects (perceptual and motor systems). Within philosophy this is the domain of the phenomenologists. Within cognitive science it is the domain of linguistics scholars as well as neuroscientists. Later branches include enactivism and extended mind theory which argue that cognitive processing is not limited to the brain or the body but rather extends out into the surrounding environment/world.[38] These views presume that experiential consciousness is always relational, though how and with what consequences varies from one scholar to another, and one field to another.

Indeed, numerous scholars have pursued new theories of cognition, consciousness, and the body in the last decades.[39] An adequate field review is impossible within the confines of this essay, but as a minimum and for the purposes here it can be noted that even from a scholarly scientific point of view, there is a great deal

[37] As philosopher of consciousness David Dennett puts it, "…*accepting dualism is giving up*," [24: 60]. Dennet is a dyed-in-the-wool materialist who has battled other philosophers for years with his provocative view that consciousness is not yet understandable in terms of the laws of physics, chemistry, biology and evolution, etc., *but it will be*. If consciousness is the magic of human beings, it is *performed* magic, with rules, sleights of hand, and illusions that we just haven't fully figured out yet [25]. I am inclined to think, however, that somehow this position still relies on a conception that is not relational enough, that leans toward the static. As if the secret of functionality of consciousness were a mechanism or series of mechanisms, even, that replace the Cartesian ghost in the machine but can nevertheless be isolated as objects of study. 'Constantly mutating and transformational interactions with and of environments' would be closer to my understanding of consciousness.

[38] Among the most recent work from an enactivist point of view see [28]. *S*ee, moreover, [29] for an excellent and detailed analysis of the relationship between enactivism and a renewed conceptualization of 'person.'.

[39] An engaging compilation of contemporary philosophers' theories of consciousness has recently been published by Bloomsbury [83].

of contemporary debate about the role of the body in understanding the person.[40] The further research progresses, the more evidence emerges that body, mind and environment are in constant communication, and more importantly, are irrevocably co-constitutive. The more we investigate, the harder it is to detach one from another. Or rather, the more we see detachments, the more we see connections. If there can be said to be any glue that binds them, it is immaterial. Without a view towards the non-physicality of entities, their physicality cannot be understood. A theory that attempts to isolate the person from its interactions will not arrive at any meaningful understanding because people—like atoms and every building block of the universe—refuse to keep still, even after their death.

Despite the persistence and diffusion of an anti-transcendental view in today's modern societies, positing that once we die, it's all over, there is a great deal of activity even today that indicates a shared feeling that *something self,* not limited to the body, can and should be preserved. Enter: *posthumous social personhood*.[41] Already in 2011, the case was being made that the fusion of the desire to live on after bodily death and the exponential growth of digital capacities would combine to make this immortality possible:

> …as machines' ability to understand human language and process vast amounts of data [...] It's going to become possible to analyse an entire life's worth of content – the tweets, the photos, the videos, the blog posts that we are producing in such massive numbers. And I think as that happens it's going to become possible for our digital personas to continue to interact in the real world long after we're gone thanks to the vastness of the amount of content we're creating and to technology's ability to make sense of it all.[42]

Though many of the current technologies are immature, services available[43] towards the goal of continuing to 'live' online after bodily death include: the preparation of online memorials or obituaries guaranteed to stay online forever; autonomous and semi-autonomous software enabling the deceased to continue to have a presence on

[40] Yet another debate with its own extensive bibliography is that of the categorical definition of the posthuman. At the least, two major categories emerge: cyborg and upload. The cyborg model imagines a future in which the posthuman is characterized by enhancements to current day versions of humanity which are, however, more advanced by means of technological additions and transformations. In some iterations, the cyborg is envisioned as providing the opportunity for an ontological kinship between the human and the nonhuman, as in Donna Haraway's landmark essay, "A Cyborg Manifesto," [47]. The upload model, instead, conceives of a disembodied, autonomous being, sometimes associated with the transhumanism movement, and sometimes connected instead to a "human-plus" model that bears more similarity to some cyborg conceptions. The field is highly interdisciplinary and quite muddy at the moment resulting in a view of the posthuman that is open-ended, with multiple and even mutually excluding definitions, as Christian theologist Thweatt-Bates rightly points out [84].

[41] Though slightly outdated in its digital references, Meese, et al., offer a concise summary of posthumous personhood practices online and some of their philosophical and social implications, see [62].

[42] Adam Ostrow, now Chief Digital Officer at media company Tegna made this prediction in the massively viewed TED Talk, "After your last update" available here: https://www.ted.com/talks/adam_ostrow_after_your_final_status_update/transcript?language=en.

[43] A comprehensive list of posthumous online services is available here: https://www.thedigitalbeyond.com/online-services-list/.

social media (to post, 'tweet,'[44] etc.); and most comprehensively, the operation of algorithmic services that use AI to create a digital version of the deceased. StoryFile uses video footage and other aspects of a person's digitally recorded presence to create 'interactive videos' available to family and friends poshumously. LifeNaut also creates a digital avatar and offers the additional service of preserving DNA, since the concept is to allow people to "create a digital back-up of their mind and genetic code" with the end goal of exploring "the transfer of human consciousness to computers/robots and beyond."[45] At the moment, these technologies seem to land squarely in the terrain of the 'uncanny valley,' the English translation of *Bukimi-no-Tani,* a term coined in 1970 by Masahiro Mori, a Japanese robot scientist. Mori observed that there is an inverse relationship between the resemblance of robots (today avatars) to humans and human comfort levels with those robots; in short, if they are too real, they become creepy. Humans both strain to exceed their organic constraints and also recognize the primacy of these very constraints.[46]

In the cases that spurred this essay, the protests are against information remaining online that conflicts with the IRL aspirations of plaintiffs. There is a primacy that encircles a conception of personhood that is not only material but also not only immaterial. Importantly, we do not appear to be prepared with any sort of ethical or legal framework to address the burgeoning instances of personhood and the technologies that boost them. And yet the law has long engaged with issues of personhood far beyond the (mere) Right to be Forgotten. If we cast a bigger net, can we recuperate legal ideas or methods to better address issues of personhood?

[44] One such service features a rather alarming tag line: "'When your heart stops beating, you'll keep tweeting'," [62: 412]. Another site with a dark background and a skeleton just visible states, "We are gonna die. Deal with it. Sign up before it's too late. Sh*t happens, be prepared if something goes wrong," (https://postumo.info/).

[45] See, https://life.storyfile.com/ and https://www.lifenaut.com/. The conviction that in the future some sort of extended life after biological death will be possible has long been explored in various kinds of fiction. In May, 2020, Netflix released a new science fiction television series called "Upload," set in 2033 and featuring a marketplace of digital 'heavens' to which people can 'upload' their consciousness after bodily death. Life in these digital heavens is experienced by people who are now called avatars, and whose connection to the 'real' world is managed by companies staffed with customer service reps called 'angels.' The first season of the show is largely focused on a romance between an avatar and his 'angel.' The show efficiently captures several of the current fantasies regarding the future: eternal life, a consciousness that exists exclusively in our brains, and the idea that technology can easily replace all necessary bodily aspects, making physical connection between the dead and the living possible.

[46] The original essay is available in translation here: https://spectrum.ieee.org/the-uncanny-valley. Basset offers a brief psychological review of the phenomenon [8]. In 2013, a popular English science fiction television series, *Black Mirror*, explored the post-mortem android concept in an episode entitled "Be Right Back." A woman who loses her young husband in a car crash has an android made of him whose similarity is so convincing that it ends up horrifying her. She takes the android to a cliff and orders it to jump to its death. The android begs for its life. In the final scenes, we learn that the android has been spared. It is kept in a closet turned off, and brought out only on weekends, mainly for the young daughter to interact with it. The mother remains uneasy. The question raised is one that will surely be confronted sooner or later: can human facsimiles replace humans? If not, why not?

## 4 The Slippery Legal Person, Yesterday and Today

At first glance, Western law's basic vision of personhood might seem undisturbed by discussions of the digital or modern 'dispersal' for it has long been comfortable with a separation of body and person. It is Roman law, after all, that made space for slaves whose bodies were undeniable, but who as legal subjects were not considered to be persons. Common law allowed that women and children were not legal persons, while corporations, instead, were. Slaves in America were considered to be ¾ of a person. All of this occurred long before today's technological advances raised the question of online personhood. No less than philosopher John Dewey boldly declared in 1926 that "for the purposes of law the conception of 'person' is a legal conception; put roughly, 'person' signifies what law makes it signify." This was an opening taunt, of sorts, as it introduces his renowned essay on the historic background of corporate legal personality.[47] As a pragmatist, Dewey saw the law in terms of its functionality, a kind of tool that in its conflation with social experience produces effects. The particular synthesis of these effects determines the meaning to be extracted. While it may be convenient to use the single term 'personhood' its contents can vary dramatically.

Furthermore, Dewey argues that each claim made for a particular definition or use of legal personhood comes from "positions and claims of some party to a struggle."[48] From a pragmatist point of view, in a democracy the law is a tool, a means, to achieve particular ends.[49] All of its categories (personhood, but also property, truth, punishment and so on) are artificial. They are created in order to support people's attempts to make and manage their lives. Even in the driest of the cases assessed in this essay, the Court recognizes that the subject has a right to determine what data about himself is no longer relevant. This is an—albeit modest—concession to the notion that legal subjects have the right to make changes in the way they present themselves, the way they live. Indeed, law is full of provisions aimed at allowing people to shape and mold their personhood. Birth names can be legally changed; citizenships obtained or renounced; gender can be changed; parentage can be assumed or dissolved; legal marriage typically produces a long series of effects on property ownership, the destination of our income, and inheritance. These provisions are based upon a view of the *natural person* as a bundling together of a group of cultural agreements and assumptions that constitute (for law) a "right-and-duty-bearing-unit."[50] Another way of saying this is that there is a category, called natural person,

[47] [26].

[48] [26: 665].

[49] Dewey expounds his theory in this vein in the concise but penetrating *Freedom and Culture* [27].

[50] Dewey citing Maitland [26: 656]. A similar observation is made in the Italian legal experience by Falzea as paraphrased by De Luca, "It is clear then that subjectivity is not a natural quality, i.e. identified in *rerum natura*, but—like all legal values—is the result of a normative qualification: this explains how it could be a quality attributed not only to man." Translation mine. Original text: "È chiaro fin d'ora che la soggettività non è una qualità naturale, individuata cioè in *rerum natura*, ma – come tutti I valori giuridici—è il risultato di una qualificazione normative: si spiega così se essa può essere una qualità che viene attribuita non soltanto all'uomo." [21: 21] note 4. See also Falzea [34], well known for his work on

to which certain features are attributed. Some features are inside the category, such as historically founded ideas about both body and mind, and other features are outside the category. As many scholars have pointed out, what is considered to be a natural rights-holding and duty-bearing human mind–body bundle has fluctuated over time (not slaves but yes corporations, as mentioned above). Controversies have abounded regarding the personhood of people with severe mental or physical disabilities or limitations, raising question such as: are people who lack any perceptible brain activity still people?[51] What about people whose bodies are entirely immobile but who can convey their still-active mental activity using a communicative system of alphabetically mapped eyelash movements?[52] The reason people in a (so-called) vegetative state provoke conflicts is because they reveal the assumption that in order to be a person, that person must be capable of thought, and this capacity must be perceptible to others. When, additionally, the person can no longer breathe or physically function without constant medical assistance, we call it a vegetative state, making a linguistic comparison to organic matter that is not, for humans, 'alive.' This perspective should be pushed further.

The body is difficult to get legal or scientific hold of because it is made of, constructed by, thoughts and feelings. When an image or phrase makes someone cry, the body transforms. It is responding to something *non-material*. Sounds, images, words are all capable of creating dramatic changes in the body that often take place without our awareness or control: blushing, sweating, smiling, rising heart rate, rising and falling body temperature, laughter. Studies have shown that yawning, which is sometimes spontaneous but also sometimes demonstrably provoked by social stimuli, leads to substantial behavioral transitions as well as measurable increases in heart rate, blood pressure, and "profound intracranial circulatory alteration."[53] The body is in constant interaction with the invisible. This is not an 'added feature' but rather fundamental to what the body is and does in the world. Again, without exposure to language, something that is entirely non-material, the brain cannot physically develop as it is intended to do. Once acquired, it is impossible to live without and structures nearly every waking moment. The advent of virtual reality only makes plain something that is already familiar. Where once we could 'only' be transported by stories, sounds, images, now three-dimensional technology engages every human sensory capacity. Pilots, astronauts, and race car

Footnote 50 (Continued)

the axiological significance of values within the Italian legal experience, and Barcellona, particularly his work on the autonomy of the legal subject [7].

[51] Legal scholar Sheryl Hamilton begins her analysis on legal personhood with the American case of Terry Schiavo, a woman who suffered a cardiac arrest at the age of 26 resulting in loss of oxygen to the brain and pervasive brain damage. She was subsequently kept alive through life-support technology for 15 years, during which numerous legal battles were fought to determine her fate [46].

[52] In the late 90 s, Jean-Dominique Bauby brought this condition to public attention when his autobiography became a best-seller and then a film. Editor-in-chief of a French fashion magazine, a brain stem stroke left him paralyzed with the exception of his left eye. Using an alphabet composed of blinking patterns, he dictated his book [9].

[53] "Seeing, hearing […] or even thinking about yawning can trigger yawns in humans, and it is suggested that attempts to shield a yawn do not stop its contagion," [60].

drivers and even architects and doctors today—to take only a few examples—can train for their professions in virtual reality contraptions that perfectly simulate the conditions they will encounter IRL.[54] As virtual technologies develop, the difference between how our bodies engage with certain stimuli in virtual worlds versus 'in the real world' becomes less perceptible. This is only one demonstration of why imagination and reality cannot be meaningfully opposed.

The human subject is "a confluence of vital process that spill out far beyond the skin and into environments"[55] that are now near, now far, material and ephemeral, logical and transcendental. Every day, millions of people essentially teleport through video conferencing. Even regular phones allow us to throw our voices thousands of kilometers. We can be operated on by surgeons living on another continent and we can make babies across the same distances. Globalization and technological advances more generally are developments that are perfectly consistent with the ways human beings are and become: through a total overlaying of nature and culture. In other words, the cognitive contours that shape every element of our daily lives do not exist a priori but are instead constructed. Humans rely on culturally constructed categories to make meaning. What is the difference between a towel and tablecloth? A library and a bookstore? A plant and a weed? There are instantly recognizable continuities among all these things, as there are features that have been determined to be importantly differentiating. The features that are at any given time considered fundamental to the definition of an item are what constitutes its category. The category "towel" consists of the features thick water-absorbing fabric, a particular size, sewn borders, etc. These features are all shared by the category "tablecloth," but the detailed qualities of the fabric type may change, the size may change, and most importantly, the *use* changes. A towel is for absorbing water, a tablecloth is for protecting a table.[56] In the case that various fabrics are available, there remains the possibility of specialization, where we can deem some kinds of fabric to be outside of the category of towel. We don't set tables with a bath towels. Should supplies become scarce, however, one item could easily assume all the required functions. 'Table covering' as a feature could then suddenly jump into the category of 'towel.'

If the conglomerate of humanness or personhood is a category, so too are all of its constitutive elements. As discussed above, however, humans are extremely 'assisted' creatures, using eyeglasses, vehicles, prostheses of all kinds in order to function in our daily lives. If a person with artificial legs takes them off, are they still 'her'? Is she herself without them? Are the musician's instrument, the athlete's tennis racket, the carpenter's hammer, in some sense each part of them? What about donated eggs or sperm or organs? Are they not part of one body and then another? Once moved, do they lose all relation to the previous body? Psychological and neurological research in the field of epigenetics posits that trauma in human

[54] Italian philosopher Elémire Zolla insightfully proposed in 1992 that because virtual reality allows people to physically experience imaginary experiences, or worlds, it could contribute towards a broad understanding of the experience of religious faith [92].

[55] [50: 344].

[56] For a moving example of the creative poetry inherent in how children see the objects of the world and their definition-through-use, see [52].

lives produces permanent epigenetic modifications of DNA that can result in changes in gene expression, endocrine function and metabolism. These changes are passed on in the genes from one generation to another.[57] So, if the effects of trauma physically cross generations, to whom does trauma belong? Once again, where is the distinction between the material and the immaterial? And if they are in constant exchange, causing tangible effects upon each other, how can we consider either to exist a priori?

If anything has the capacity to create some order out of this chaos, however, it is that human flexibility and creativity regarding our categorizations of the world and ourselves are far from random. We might say they are *instrumental*, with all the layered implications the word conveys. Each choice of inclusion or exclusion of a given feature to a given category is made with a view to particular ends. The towel is deemed such because we have the goal/end in mind of absorbing liquid. Weightier categories like 'natural person' have taken on or discarded features with a view to seeking the protection of universal dignity, or preventing ownership of persons, or creating equality of gender. Typically, the ends that gather in relation to a group of means are multiple in part because they are the direct outcome of our experiences. It is only when there is an obstacle to 'natural' reproduction that assisted means are dreamed up, developed, delivered. It is only when societal attitudes shift towards a view of sexual practices as divisible from procreation that contraceptives become possible solutions. It is only when children are no longer seen as miniature adults that ideas about protecting their developmental stages through law lead to their inclusion in concepts of natural person. It is only when people are no longer seen as property that human rights have any credence.

The law is yet another human creation that determines categories designed to govern living. The Right to Be Forgotten cases are an illustration of human endeavoring to pull into the fold of living, of agency, the ability to mold our *future* lives, including their online 'appendages,' which are increasingly not appendages at all, but fully within the categorical boundaries of self. The instrumentality of categories is driven by the need for sense-making. We formulate and reformulate our categories as part of human becoming, a process which continues at least until the

[57] Neuroscientist Rachel Yehuda and psychiatrist Bessel van der Kolk did the foundational research upon which Mark Wolynn based his best-selling book, *It Didn't Start with You: How Inherited Family Trauma Shapes Who We Are and How to End the Cycle* [91]. Once again, we can find a strong a connection between the material and the immaterial. A 2014 study that tested the effects of fear in mice through the association of a particular smell with electric shocks found that the process produced changes in the brain structure and DNA of the affected mice which were passed on to their offspring, even though the offspring were not exposed to shock treatments. The researchers then showed that "the effects of traumatic experience can be reversed by retraining, specifically by positive conditioning in a safe environment. Mice exposed to a particular signal without any negative conditioning gradually became desensitised to the odour. They also lost the epigenetic modifications associated with this experience and the abovementioned physiological changes in the brain likewise disappeared." This research in epigenetic inheritance could have important consequences for how we view evolution itself [82].

organism ceases to exist.[58] The changes that constantly take place in environments are connected in a circular loop with human experience and action. Humans simultaneously seek to understand changes and put them into motion. The *means* that are available change the *ends* that are pursued, and vice versa. The right to be forgotten presents itself now because we have technology that never forgets.

In any case, categorization schemes are constantly mutating, updating. It was once culturally important to remember large quantities of information because we needed it to navigate our daily lives (directions, addresses, phone numbers, or even prayers). Today forgetting is more prevalent because we rely on technology to remember for us. While forgetting may stem from the fallibility of the human brain's memory capacity, it is a mechanism that can be useful, both in pre-digital and post-digital environments, particularly if we think of forgetting as leaving behind, or setting aside[59]. The various transitions required in moving from pre- to post-digital environments illustrate this plainly: we must set aside old habits related to in-person encounters if we are to take advantage of the benefits of communicating digitally with people who are physically distant from us. We cannot afford to believe that digitally produced words or images are 'not real' now that they have overwhelmed those on paper or in person. There is no comparing the power and reach of the lone voice on Twitter vs the lone voice at the London Speaker's Corner. More profoundly: as technology advances, the semi-elimination of time zones and other obstacles to older forms of communication can *increase* intimacy between people. These new means allow people to achieve old ends: maintaining ties with family members and friends, enriching social networks, collaborating with others, and create new ones. Shifts in our ideas about how we achieve our goals require what can be termed 'categorical migrations,'[60] meaning, the movement of some features from outside a categorical framework to inside, and vice versa. If digital expression is to be legitimated, features relating to the importance of material bodies must be moved outside the category; we can no longer demand in-person contact in every instance.[61] Performing migrations across categories can, nevertheless, sometimes be the cause of societal stress and conflict. The medical field abounds with controversies on issues such as euthanasia, abortion, posthumous sperm extraction, and so on, which highlight the difficulties inherent in determining where to draw lines around individual bodily autonomy. Human cloning has been widely rejected at least in part due to our inability to accept a definition of human reproduction that takes place

[58] The argument that human immortality will be the next condition afforded by technology that can 'upload' human consciousness to a digital platform remains popular, as noted above. But see Di Paolo [29] again, for a rich and complex analysis of human becoming within an enactive phenomenology.

[59] The president of the CGIL, the French data protection agency, argued that what is at stake with the right to oblivion is no less than bringing back "a natural funtion, forgetting, that renders life bearable." Cited in [22:7]]. [61] offers a kind of ode to the importance of thinking carefully about forgetting as we we contruct our digital future.

[60] Ricca has elaborated this theory extensively throughout his works, but for an application to legal personhood, see [74].

[61] The world learned this lesson well in 2020 thanks to the global outbreak of Covid 19, which generated unprecedented levels of online replacement of previously in-person tasks transforming workplaces, education and more, with effects that long outlasted the pandemic.

entirely in a laboratory and would create copies rather than descendants.[62] New ideas that throw old ones into relief often generate knee-jerk refutations.[63] The existence of human clones would prompt even more fevered debates than those currently mounting with the increasing use of artificial intelligence.

The risk in denying categorical migrations, however, is that we may inadvertently betray the very possibilities we were trying to protect through the creation of the original category. Imagine, for example, a new response to the excess of fake news and online impersonation/account hacking which declares that personal digital expressions of political views are no longer reliably genuine and therefore only politicians, certified through some additional biotechnology, can express their views online. There would likely be a universal outcry against this move as a blatant violation of freedom of speech. The category of online political expression *must* include political constituents as well as political leaders, at least in a democracy. And yet, there is a line to be traced through case law related to individual agency online that does not seem to move in this direction. In another essay,[64] I have addressed the case of *Ewa Glawischnig-Piesczek v. Facebook Ireland Limited* in which an Austrian politician won the right to have the comments of one of her detractors removed from all global platforms. There was no question at all about whether the comments were part of the commentator, the way intellectual property, for example, is held to be part of its creator. More interesting to the Court was the stickiness between the political figure and her reputation, deemed worthy of protection. The final decision held to an older conception of defamation and in so doing protected the politician over her critic. But is silencing political critique online compatible with freedom of information? Freedom of expression? The inconsistency between holding that negative information must remain online in one case and must be removed in another demonstrates the tension that results from rattling the bars of our categorical cages. It also shows our uncertainty about what aspects of personhood should be protected, and therefore how we define personhood. For if the law has long been comfortable with overtly artificial definitions of personhood that separate bodies from persons, there is another cultural domain that has ranged even further in its understandings of personhood: religion.

[62] Which has, nevertheless and in large numbers, not been carried out in a natural way from a traditional organically human point of view for at least the last 50 years, thanks to contraception, legalized abortion and assisted reproduction.

[63] One classic such issue in the area of reproduction is male contraception. Male hormonal treatments were developed and tested 30 years ago and were found to have a 90–95% efficacy rate, however pharmaceutical companies have been unwilling to fund further research. For the moment, the category of responsibility for human reproduction seems to have been assigned to women alone. As one article posits, "Because the direct health benefits of pregnancy prevention for men are less tangible, male contraceptive development faces additional challenges because agents used for this purpose might be used by healthy individuals over many years. Therefore, acceptance of side effects, or even potential side effects, is very low" [69].

[64] [89].

## 5 Personhood Through a Religious Lens

In some sense, ancient religions have long known what embodiment theorists are 'discovering' today: the immaterial *matters*.[65] Any understanding of the human person must be understood in terms of its relations with the world it inhabits and creates. To makes sense of the person, we need to consider the mind, the body, their relationship with the world and with the mind–body systems of others.[66] Cognition, consciousness, spirit and mind are thus all terms that necessarily orbit conceptions of personhood. All of the major world religions have complex understandings of the relations between the human body, spirit, and the divine.[67] Despite their differences, there are significant similarities in this regard in religious traditions. In each, the spirit lives on after the death of the body and must be attended to, before and after death. There are complex and varied rituals to be performed to assure a peaceful passing to the next realm, and in some traditions, ongoing rites aim to safeguard the wellbeing of spirits no longer on earth. Reincarnation is pivotal to many Eastern religious traditions particularly Tibetan Buddhism, whose central leader is himself considered to be cyclically reincarnated. The principal rites and rituals of Christianity look towards the rewards to be reaped after life on earth, and the doctrine of the Holy Trinity posits that the divinity is a tripartite entity, three indivisible but distinct parts of the Godhead, the Father, the Son, and the Holy Spirit.[68] The Christian ritual of the eucharist both unites the community of worshippers who undertake it together (communion) and represents the union professed by Jesus at the Last Supper in which he calls for the sharing of bread (his body) and wine (his blood). Spirt and body are here in constant relationship and metonymy.

Indeed, the major religions, specifically Catholicism, have always based the concept of person on the body/mind, or body/soul, and have intended the

[65] The pun here is intentional. The immaterial is important, but as I have tried to show, it also is inextricably interwoven with the material. In this sense it creates/is matter.

[66] This is an adaptation of cognitive scientist Gallese's statement, "To make sense of cognition we need to study the brain, the body, their relationship with the world and with the brain-body systems of others," [39: 31].

[67] Among the great chroniclers of comparative religion is Mircea Eliade. His massive histories of religious ideas provide broad and deep perspective, but for a slimmer volume perhaps more targeted to the concerns of this essay, see [32]. See Ries [75] for a compelling argument for *homo religiosus*, a conception of humankind in which a religiously oriented instinct predates the major religions. Otto is among the cornerstones of modern theology regarding the phenomenological character of transcendent experiences and understandings, in some ways anticipating from a religious perspective the explorations to follow in the development of embodied cognition theory. See [68]. Interestingly, there is a new thread of scholarship called 'cyborg theology' which addresses issues of the posthuman from a theological perspective. See *supra*, but also [90, 64, 79].

[68] St. Augustine was of course among the original sources of interpretation of the Christian concept of Trinity, translated for the twenty-first century [4]. A comprehensive historical treatment of the concept of the Trinity is offered by Marmion D. and van Nieuwenhove, R. [59], while a Trinitarian theology perspective in dialogue with other religions, Reformed and Orthodox traditions as well as Asian, Latin American, feminist, Black, and Hispanic theologies is offered in Phan [70].

individuality resulting from this ontological connection in a relational way.[69] Personhood, in this tradition, is understood to transcend the individual self. Theological doctrine identifies the individual as a path to a greater end; its authentic purpose is its relationship to Otherness via solidarity, which together look towards the achievement of common good. It is only through this relationship that individuality obtains the genuine features of the 'person,' which cannot be ontologically considered outside the relationship of the individual to God and therefore to Otherness; the person embodies God as a part of divine creation.[70] The distinction between the natural/human person and the legal person was already put forward by the medieval decretists, specifically Huguccio of Pisa, defining legal personhood to be only a fiction (*persona ficta*).[71] However, even the category natural/human person was not static. Catholic theology and Canon law have always understood personhood as something linked to but not entirely absorbed by the material individuality of the body (that is, its status as a unit divided from the world, from other human beings, from community).[72] Precisely for this reason, both Catholic theology and Canon law came to recognize non-bodily entities as having the capacity to be imbued with corporeity in metaphorical terms (e.g., the Church ontologically intended as the mystical body of Christ); or in metonymical terms, whereby, for example, relics, graves, funerary mausoleums, sacred stones, etc., were 'suffused' with the personhood emanating from a human person.[73] From this point of view, religious theological doctrine and Canon law can offer analogies that are germane to modern concerns of personhood and can meaningfully address the exceedances of human personhood as understood in a range of contexts.

The 'disenchantment' of the world has been much proclaimed as a historical shift in the West from Christian views of mind/body/soul to a growing reliance on scientific processes and beliefs which turned towards the body-as-machine metaphor. However, there was no clean break in which one ontology replaced the other. Multiple ontologies for the body have always existed in parallel[74] and continue to do so. Again, the care shown around rituals of death in nearly every tradition of the world (including secular ones) implies a shared agreement with

[69] On Christian anthropology and the body/soul relationship see [14–17, 36, 77, 85]. As regards the legal canonistic implications of theological-anthropological approaches see, in a vast literature, [55–57, 75].

[70] De Luca describes this inter-relationality between God and the individual in the Christian tradition succinctly: "Subjectivity is the image of God's interiorization within man and, at the same time, of his transcendence." Translation mine. Original: "La soggettività è l'immagine della interiorizzazione di Dio nell'uomo, e, al tempo stesso, della sua trascendenza" [21: 24]. The broad and accessible [42] argues that a dualistic view of the human person is inconsistent with both science and Scripture.

[71] For a detailed analysis of medieval decretists' development of ideas of *ius naturale* and the evolution of the conceptualization of human personhood and related rights, see [85].

[72] Coughlin [18] offers a concise analysis on Canon Law and personhood. See also [56].

[73] As a follow up to his widely read, *We Have Never Been Modern*, the inimitable French philosopher-sociologist-anthropologist Bruno Latour proposed a bold comparison between religious icons and fetishes and "scientific objective facts." In a relentless critique of critique, Latour suggests the need to mediate between subject and object (fabricated and real) across both religious and scientific fronts, yielding revelatory contradictions and productive comparisons [53].

[74] [48: 671].

religious traditions that there is more to life than the body. Without such beliefs, whither funerals, memorial services, and gravestones?[75] And why bring such practices online?[76] If the body is merely a machine, why invest any effort in it once the machine has ceased to function? Instead, the care invested in cemeteries and online memorials offer visual illustrations of a persistent belief that something of the person may, should or could live on after death. The continuity between the last will and testament and religious ideas of afterlife offers further evidence. Even the most secular person demonstrates a belief in some non-bodily expression of self when she respects the terms of a will, otherwise why honor it at all? The law, for its part, as has already been argued, supports and furthers the legitimacy of a personhood that exists beyond the life of the body.[77] Inheritance law, the existence of the crime of desecration, notions of intellectual property and more, all underscore legal recognition of personhood beyond the physical body. What's more, these ideas and values underpin and penetrate modern Western legal systems, and this is important when we consider the value of religious ideas (understood anthropologically) to the legitimacy of these systems. Among the more important elements that are currently being largely overlooked in the digital projections of legal personhood are a series of implicit cultural assumptions underlying the natural person/legal person divide, and the conceptualization of its components. This divide originates in an antecedent theological distinction, but the historical secularizations that followed caused it to lose semantic proximity—so to speak—with its roots. It was the Church's attempt to defend its natural theology and the principle of *Imago Dei* (human beings are central because created in the image and likeness of the Creator) against perceived attacks from new scientific discoveries that led to the rift between faith and reason.[78] The today familiar, but invented, division separating the rational and the transcendental is largely the historical product of institutional power struggles that defined the eighteenth century in the West. After all, alongside the separation between mind and body that is central to Cartesian philosophy lies the conviction that not only does God exist, but that His existence is self-evident and therefore irrefutable.

Secularism turns out not to be—as I have written elsewhere joining what has become a kind of vast modern chorus—the absence of religion, quite the contrary.[79] Secularism takes different shapes and forms around the modern world, but in every case, the religious past of each legal system remains palpable in the values that underpin these systems. From conceptions of truth to contracts to punishment, religiously rooted concepts sit in the foundations and determine many of the possibilities and limits of these systems. This is relevant because if we can benefit from the fluidity of religious thinking regarding personhood to be found in traditional Christian ontologies (as just one example), these conceptualizations are likely to find ready resonance in the legal systems

[75] For a fascinating archeologically based study on the changing importance of Euro-American grave sites as a reflection of changing social attitudes towards the importance of social identity, see [65].

[76] See [12, 54] and especially [67].

[77] A concise yet wide-ranging essay collection on law and the body in the Italian experience can be found in [19].

[78] [74: 35–40].

[79] [88]. For a contemporary overview of scholarship on secularism in the West, see [13].

that are themselves heir to these traditions. This is not a "religious argument," but rather an argument for the semiotic potentiality to be found in alternative (which here are paradoxically traditional) approaches to the transcendence/exceedance of personhood. Though it may seem contradictory, only a secularization that can recognize and accept the continued resilience of religion within its categories can liberate itself from their influence and put certain issues in dialogue,[80] such as the unity of mind/body in relation to personhood.

Despite ubiquitous modern insistence—particularly among the scientists and legal practitioners addressing these questions—that religion is not relevant to these issues, there is nevertheless a persistent need to make sense of dispersed aspects of human personhood that appears unmet. Attempts at sensemaking often overlap with religious ontologies,[81] and pop up in in unexpected ways. A wonderfully apposite example of this is the phenomenon of "dispositions for the soul" recited in church. This is an ancient part of the Catholic tradition in which believers, often but not always concerned about the length of a potential stay in purgatory after death, left behind financial contributions to the church to carry out masses on their behalf. In some cases, these requests extended for as many as 150 years after the person's death. This may appear to be a uniquely religious phenomenon, and an outdated one at that, and yet today it remains ensconced not only in Canon law, but in no less than the secular Italian Civil Code (CC 629) which states, "The provisions in favor of the soul (1) are valid if the goods are determined or the sum to be used for that purpose can be determined. They are regarded as an obligation of the heir or legatee, and Art. 648(2) applies. The testator may appoint a person to perform the provision, even in the absence of an interested party who can request the performance [700](3)."[82] Dispositions for the soul offer a perfect instance of the imbrication of religious and secular conceptions of personhood.[83] They represent a kind of peaceful accord of what might otherwise be utterly opposed views.

These dispositions for the soul are of the same vein as the various digital programs intending to leave lasting regular communications behind, or any of the other practices considered in this essay: all share a desire for human becoming that gives the lie to a materialist view of the life of the organic body. The Right to Be Forgotten is invoked not as a plea to have one's existence wiped off the earth, quite the contrary: it is nothing less than a howl to preserve the possibility of changing the experiential dimension of being alive. It is a call for new conceptualizations of subjectivity that function as axes on which to hang the relationship between *ends* (how

[80] [72] as just the latest in years of research arguing this point.

[81] In his popular treatise *The Heresy of Self-Love*, Paul Zweig provides a kind of anthropology of the concept of self, touching on the radical and threatening proposals of the Gnostics, then St. Augustine's defense of the Christian idea of abdication of individual will, humbled before the authority of God's representative on Earth, and then to St. Paul's conception of man as a mirror for divine light. The book is, however, centered on the myth of Narcissus, and the human struggle over the ages with what he terms 'subversive individualism' [86].

[82] Italian Civil Code 629, translation mine.

[83] De Luca [21] is among the very few to propose a modern critical legal analysis of dispositions of the soul through a comparative study exploring the historical roots of personhood in both Canon Law and the Italian civil legal experience. Dillon [30] provides a robust historical legal perspective of the legal provisions in this regard in the United States, as does Guelfi [44] in Italy.

people want to live and be seen) and *means* (the myriad ways they make this happen). It is a claim for freedom.

The 'opening up' of subjectivity is neither new nor exclusive to a single ontology. Theologians and scientists alike demonstrate a creative attitude towards reality-making whether they are identifying ways to shape lives with a view to the afterlife or with a view to DNA improvements. Once we acknowledge that any definition of the human is a category set with a bundled set of attributes, then a new continuity is visible between what is artificial and what is natural; what we call 'natural' is the result of our creative reality-making. This recognition of our creativity, however, leads to a kind of pulling back of the curtain. Behind the proscenium of our daily theatre, acting as if life just exists, a priori, is the constructed theatre set, the scaffolding made of categorical distinctions like *artificial* and *natural*, *intrinsic* and *acquired*. Recognizing that these are constructions means exposing their conclusions to the possibility of change.

Categorical blindness can show up even when consciously trying to see. In an illuminating and astute anthropological article that lays out a theory of multiple ontologies, the authors make a point I have reiterated above: humans are perfectly capable of living with contradictory ontological models. In support of this point, the authors offer examples of things that Others might believe: "on a different plane of reality people can become pregnant without sexual intercourse, arise and live again after death, heal others magically, and so on."[84] These are proffered as examples of alterity, and yet all of them are demonstrable conditions of modern life. Even modern Western people *can* become pregnant without sexual intercourse thanks to IVF technologies, they *can* arise and live again after death thanks to medical resuscitation. And is there a manifest difference between talk-therapy that cures anorexia, depression, and other bodily maladies and shamanistic spells? Must one really "engage with the world in a different way" to understand these things? And why would we question their reality?

## 6 Conclusion: A Radically Ecological View of Personhood

Why ecological? I use this term to point towards an inclusive or holistic view that is concentrated on the relationships that are not subsequent or external but rather constitutive and inherent to all living entities, and to the concepts and categories used to create them. The semiotic significance of a human life is not found in only one static place. The body is best understood as a kind of icon, made up of a bundle of activities that are only part of the human person. Human expression, online and off, is also a bundle of activities. If personhood is reified either in its bodily sense or its legal sense and thus detached from the activities of the person, what remains? Such a separation would cause changes in all of its aspects, material and immaterial, and these changes would affect their signification, and thus their ontological 'matter.' It is for this reason that we cannot in good conscience limit legal rights to a vague notion of data subjects any more than we can make broad

[84] [48: 672].

declarations about what the public has a right to know, over and above the people they wish to know about. Nor should we ignore the insights to be gained from religious understandings of the immaterial aspects of personhood. The quote that opens this essay is taken from anthropologist Tim Ingold. In one passage of his latest book, he puts negligence and religion in dialogue, citing French philosopher Michel Serres who investigates the etymology of 'religion.' If we accept Cicero's tracing to the Latin *re-legere*, to re-read, its opposite, he notes, is *neg-legere*: 'to not read,' or to neglect or refuse. Ingold concludes, "The opposite of religion, then, is negligence." I follow Ingold in viewing this as the "distorting lens of a cognitive grammar of representation that neglects or denies, a priori, the very commitments on which participation depends…"[85] When the religious is placed opposite the rational or even the real, it and all of its ontologies are removed from consideration. To lose ancient insights that find active resonance in what personhood means today would indeed be negligent. It may always have been the case, but with the current potential to live, at least in some respects, forever, personhood is never a conclusion but always a horizon.

Nevertheless, this is not to give up on identifying a meaningful category for personhood, but rather to push back on its iconization, its solidification into a cluster of unnamed generalizations. If we make our experiences embody our generalizations which subsequently lead to experience in an endless Peircean circle, then an openness to adding new features to the category of personhood will have consequences. Steps toward new conceptualizations of personhood should be taken slowly and carefully since we cannot predict every effect. Past conceptualizations undoubtedly have something to teach us about which values were previously included, why, and what means were and might be entailed in order to reach particular ends. We should not limit our view of traditional ideas of personhood to their morphological or material appearances but should instead dig deeper to try to understand what our old categories were trying to put in action. New iterations, too, must be examined to see where there is continuity, and where it is lacking. From this perspective, it is not obvious to say where the line lies between the soul and the human avatar, intended in the broadest sense, when it comes to personhood. If we can accept that nothing less than this question is at stake, should Google (or any other corporate tech giant) be in charge of molding the contours of future personhood? Of determining what expression will be protected and what will not? Should we leave it in the hands of capitalist market forces to determine who and what we are and how those creations are protected?

The exponential growth in capacity of AI and our philosophical and ethical unpreparedness for the unknown consequences is a growing concern for many. Regardless of the position taken in this regard, there is little doubt that human-digital entanglement will only increase. Algorithms are doing far more, these days, than tracking our shopping habits. A deep learning algorithm developed at MIT was trained to analyze the structure of 2,500 molecules to evaluate their anti-bacterial properties. It then searched a library of 100 million molecules to predict their ability to combat specific pathogens, and ultimately discovered a molecule that is

[85] [50: 77].

structurally divergent from conventional antibiotics and can eliminate previously drug-resistant bacteria.[86] In this little case, whose subject matter at the base is life and death, algorithms have surpassed human capacity to address human medical ailments. This goes beyond anything we have seen so far in the 'dispersal' of human personhood. This is particularly so because a frequent lament of AI researchers is that in this era of artificial neural networks, where the technology is self-learning, even the scientists who create them do not know how they do what they do.[87] If algorithms continue their exponential growth in terms of their role in our everyday lives, it might be wise to consider more ecological views of human becoming.

If we take a moment to reflect on the path that led to our current position we see: individual human capacity as a basis for natural rights at least from the Enlightenment; a move away from divine hierarchies towards human ones linked to rationality, becoming then a kind of turnkey for freedom; rational man as the recipient of freedom, dignity and respect as a consequence of his rationality, following Cartesian reasoning; and ultimately a predominance of the importance of the individual and her capacity to determine her own life. And yet, individual human capacity today is tremendously reliant on a myriad of technological and digital assistance and networked environments, provoking a new level of challenges. Our digital presences keep evolving and yet remain linked to our past selves. As I have tried to argue, what we *are* should be understood within a continuum that includes all the multiple and complex variations of what we have been and most importantly, what we would like to *become*. The key issues I have attempted to elucidate are old problems. They have long been wrestled with by some of the greatest thinkers from religious, scientific and philosophical domains across diverse religious and cultural traditions. Digital developments only exacerbate tensions that have existed from the beginning of humankind in our quest for understanding our place in the terrestrial sphere and in any transcendent realm beyond. I have tried to demonstrate that it would be a mistake to overlook the creativity that abounds in both religious and secular forms when it comes to addressing questions of personhood. From the ancient concepts of the soul to the experiments of geneticists and biologists to the ongoing evolution of online avatars, human personhood is always straining at the bounds of possibility, seeking new means of agency, striving for unknown futures.

The request for the right to be forgotten is about much more than what happens to a few data points online. It is a kind of finger pointing at the vast array of unabating mutations that is human becoming. Our constant connection with digital devices, heads down, hands gripping phones as we walk, is on a continuum with our feet

[86] [80].

[87] Important tasks assigned to AI can be found in the legal field as well. In 2018, a study published in the *Quarterly Journal of Economics* claimed that an AI algorithm made better pre-trial bail decisions than human judges in New York City. Though the study caused something of a sensation—it was cited more than 900 times—it was later found that the algorithm had violated New York law by illegally detaining misdemeanor defendants without bail. An acute and compelling deconstruction of the study, which also warns of the danger in using 'black box' AI—machine-learning algorithms that make predictions whose explanations remain unknowable and untraceable—particularly in combination with absent field experts (no legal professionals were included in the design of the study), is offered by Meltzer [63].

rooted to the ground, our lungs taking in air as we breathe: all of these are parts of an ecology of human becoming. So-called digital natives make fewer and fewer distinctions between their lives online and offline, and this too is on a continuum with how humans have always engaged with past, present and future. Even the most secular societies interact and protect *legacies*, both tangible and not, because the continuity between who we are, what we do during our lives, and what lives on after us is undeniable, inevitable. AI offers avatars of our deceased loved ones so we may speak to them when they are gone, but we have been doing this for as long as humans have been in existence, with and without visual aids. The immaterial is *immanent* in how we live, and it continues to be so after we die, interplaying with the social and natural environment and engendering further *material* implications. In some circuits, the right to be forgotten is called the right to oblivion, but I think this is a misnomer. There is a permanence about 'oblivion' that does not reflect how humans live on inside of those they affected while living, whether we 'obliterate' some of their material traces or not. What is called for, from the law, is to meaningfully consider not so much forgetting or oblivion, but rather *becoming*, in all its manifestations. Human becoming is not a question of matter or spirit, but rather their fleeting substance which lives now, but also yesterday and again tomorrow.

## References


1. Alter, Alexandra, and Harris, Elizabeth A. Franzen, Grisham and Other Prominent Authors Sue OpenAI. *New York Times.* https://www.nytimes.com/2023/09/20/books/authors-openai-lawsuit-chatgpt-copyright.html. Accessed on 20 Sept 2023.
2. Ambrose, Meg Leta. 2013. It's about time: Privacy, information life cycles and the right to be forgotten. *Stanford Technology Law Review* 16 (2): 369.
3. Ambrose, Meg Leta, and Ausloos, Jef. 2013. The right to be forgotten across the pond. *Journal of Information Policy*, 3 (2013), 1–23. Penn State University Press. https://www.jstor.org/stable/ https://doi.org/10.5325/jinfopoli.3.2013.0001.
4. Augustine. 1991. *The Trinity*, Trans. Hill, Edmund. New York: New City Press.
5. Bagni, Silvia, and Domenico Amirante. 2022. *Environmental constitutionalism in the anthropocene values, principles and actions*. Abingdon, New York: Routledge.
6. Baker, Lynne Rudder. 2000. *Persons and bodies: A constitution view*. Cambridge: Cambridge University Press.
7. Barcellona, Pietro. 1984. *I soggetti e le norme*. Milano: Giuffrè.
8. Basset, Debra J. 2018. Ctrl+Alt+Delete: The changing landscape of the uncanny valley and the fear of second loss. *Current Psychology, Springer*. https://doi.org/10.1007/s12144-018-0006-5.
9. Bauby, Jean-Dominique. 2007. *Le Scaphandre et le Papillon*. Paris: Robert Laffont.
10. Biasotti, Maria Angela, and Sebastiano Faro. 2016. The Italian perspective of the right to oblivion. *International Review of Law, Computers & Technology* 30 (1–2): 5–16. https://doi.org/10.1080/13600869.2015.1125159.
11. Boyd, David R. 2017. *The rights of nature. A legal revolution that could save the world*. Toronto: ECW Press.
12. Brubaker, Jed R., Hayes, Gillian R., and Dourish, Paul. 2013. Beyond the grave: Facebook as a site for the expansion of death and mourning. *The Information Society*, 29: 152–163, Routledge.
13. Calhoun, Craig, Mark Jurgensmeyer, and Jonathan VanAntwerpen. 2011. *Rethinking secularism*. Oxford: Oxford University Press.
14. Cooper, John W. 2001. Biblical anthropology and the body-soul problem. In *Soul, Body, and Survival: Essays on the Metaphysics of Human Persons*, ed. Corcoran K.
15. Cooper, John W. 2009. The current body-soul debate: A case for dualistic holism. *Southern Baptist Journal of Theology* 13 (2): 32–50.

16. Cooper, John W. 2015. Scripture and philosophy on the unity of body and soul: An integrative method for theological anthropology. In *Theology and anthropology*, ed. J.R. Farris and C. Taliaferro, 27–44. Oxon, New York: Abingdon.
17. Cooper, John W. 2000. *Body, soul, and life everlasting: Biblical anthropology and monism-dualism debate*. Grand Rapids, Michigan: Eerdmans.
18. Coughlin, John J. 2003. Canon law and the human person. *Journal of Law & Religion* 19: 1–58. https://doi.org/10.2307/3649158.
19. D'Agostino, Francesco, ed. 1984. *Diritto e Corporeità*. Milano: Jaca Book.
20. De Baets, Antoon. 2016. A historian's view on the right to be forgotten. *International Review of Law, Computers & Technology* 30 (1–2): 57–66. https://doi.org/10.1080/13600869.2015.1125155.
21. De Luca, Nicoletta. 1984. *Anima est plus quam corpus*. Milan: Giuffré Editore.
22. De Terwangne, Cécile. 2012. Internet privacy and the right to be forgotten/right to oblivion. In "VII International conference on internet, law & politics. Net neutrality and other challenges for the future of the Internet" [monograph online]. *IDP. Revista de Internet, Derecho y Política*. 13: 109–121. UOC.
23. Della Morte, Gabriele. 2014. International law between the duty of memory and the right to oblivion. *International Criminal Law Review* 14 (2014): 427–440.
24. Dennett, Daniel. 1991. *Consciousness explained*. London: Penguin Books.
25. Dennett, Daniel. 2003. Explaining the "magic" of consciousness. *Journal of Cultural and Evolutionary Psychology* 1 (1): 7–19.
26. Dewey, John. 1926. The historic background of corporate legal personality. *Yale Law Journal* 36 (6): 655–673.
27. Dewey, John. 1989 (Or. 1939). *Freedom and culture*. Amherst: Prometheus Books.
28. Di Paolo, Ezequiel, Anne De Jaegher, and Cuffari Elena. 2018. *Linguistic bodies*. Cambridge (MA): MIT Press.
29. Di Paolo, Ezequiel. 2020. Enactive becoming. *Phenomenology and the Cognitive Sciences*. https://doi.org/10.1007/s11097-019-09654-1.
30. Dillon, William. 1896. *Bequests for masses for the souls of deceased persons: An examination of the present conditions of the law in the United States regarding the validity of bequests of this character*. Chicago: Hyland.
31. Docksey, Christopher. 2022. Journalism on trial and the right to be forgotten. *Verfassungsblog.de*. Available at: https://verfassungsblog.de/journalism-rtbf/.
32. Eliade, Mircea. 1963. *The sacred and the profane. The nature of religion*. Trans. Willard R. Trask. New York: Harcourt, Brace and World, Inc.
33. ESD-Edizioni Studio Domenicano. 2007. *Le dimensioni dell'uomo. Spirito, Anima, Corpo, in Divus Thomas*.1.
34. Falzea, Angelo. 1939. *Il soggetto nel sistema dei fenomeni giuridici*. Milan: Giuffrè.
35. Floridi, Luciano, ed. 2015. *The onlife manifesto. Being human in a hyperconnected era*. Cham: Springer.
36. Frantizou, Eleni. 2014. Further developments in the right to be forgotten: The European court of justice's judgment in case C-131/12, Google Spain, SL, Google Inc v Agencia Espanola de Protecccion de Datos. *Human Rights Law Review* 14 (4): 761–777. https://doi.org/10.1093/hrlr/ngu033.
37. Freddoso, Alfred J. 2002. Good news, your soul hasn't died quite yet. *American Catholic Philosophical Association, Proceedings of the ACPA* 75: 99–120.
38. Frenkel, Sheera, and Thompson, Stuart A. 'Not for Machines to Harvest': Data Revolts Break Out Against A.I. July 15, 2023, *The New York Times*. https://www.nytimes.com/2023/07/15/technology/artificial-intelligence-models-chat-data.html. Accessed 14 Nov 2023.
39. Gallese, Vittorio. 2018. Embodied simulation and its role in cognition. *Reti, saperi, linguaggi 1/2018* 7 (13): 31–46.
40. Gomes de Andrade, Norberto Nuno. 2009. Striking a balance between property and personality. The case of the Avatars. *Cultures of Virtual Worlds*, 1 (3), February 2009.
41. Gooding, Francis. 2023. Orca life. *London Review of Books* 45 (18): 7.
42. Green, Joel B. 2008. *Body, soul and human life: The nature of humanity in the Bible*. Grand Rapids, Michigan: Baker Academics.
43. Grstein, Oskar J. 2022. Right to be Forgotten: EU-ropean Data Imperialism, National Privilege, or Universal Human Right? (February 20, 2020). Review of European Administrative Law (2020/1) pp. 125–152. https://doi.org/10.7590/187479820X15881424928426

44. Guelfi, Francesco Filomusi. Delle disposizioni per l'anima o a favore dell'anima nel diritto civile italiano, in *Riv. Ital. per le Scienze Giuridiche, I, fasc. 1, 1*.
45. Gunkel, David J. 2018. The other question: Can and should robots have rights? *Ethics and Information Technology* 2018 (20): 87–99.
46. Hamilton, Sheryl N. 2009. *Impersonations. Troubling the person in law and culture*. Toronto: University of Toronto Press.
47. Haraway, Donna. 1991. A Cyborg manifesto. Science, technology, and socialist-feminism in the late twentieth century. In *Simians, cyborgs and women: The reinvention of nature*, 149–181. New York: Routledge.
48. Harris, Oliver, and Robb, John. 2012. Multiple ontologies and the problem of the body in history. *American Anthropologist*, 114 (4): 668–679, ISSN 0002–7294, online ISSN 1548–1433.
49. Iglezakis, Ionnis. 2014. The right to be forgotten in the google spain case (case C-131/12): A clear victory for data protection or an obstacle for the internet? Paper presented at the 4th International Conference on Information Law.
50. Ingold, Tim. 2022. *Imagining for real: Essays on creation, attention and correspondence*. Abingdon: Routledge.
51. Kapica, Steven S. 2014. I don't feel like a copy': Post-human legal personhood and Caprica. *Griffith Law Review.* 23 (4): 612–633. https://doi.org/10.1080/10383441.2014.1014454.
52. Krauss, Ruth. 1952/1989. *A hole is to dig*. Harper Trophy.
53. Latour, Bruno. 2010. *On the modern cult of the factish gods*. Trans. Heather MacLean and Cathy Porter. Durham: Duke University Press.
54. Lingel, Jessa. 2013. The digital remains: Social media and practices of online grief. *The Information Society* 29: 190–195, Routledge.
55. Lo Castro, Gaetano. 1974. *Personalità morale e soggettività giuridica nel diritto canonico (Contributo allo studio delle persone morali)*. Milan: Giuffrè.
56. Lo Castro, Gaetano. 2011. *Il mistero del diritto. Vol. II. Persona e diritto nella Chiesa*. Torino: Giappichelli.
57. Lo Castro, Gaetano. 1985. *Il soggetto e i suoi diritti nell'ordinamento canonico*. Milan: Giuffrè.
58. Lopucki, Lynn. 2018. Algorithmic entities. *Washington University Law Review* 95 (1): 1–66.
59. Marmion, Declan, and Rik van Nieuwenhove. 2011. *An introduction to the trinity*. Cambridge: Cambridge University Press.
60. Massen, Jorg J.M.., and Andrew G. Gallup. 2017. Why contagious yawning does not (yet) equate to empathy. *Neuroscience and Biobehavioral Reviews* 80 (2017): 573–585.
61. Mayer-Schönberger, Viktor. 2011. *Delete: The virtue of forgetting in the digital age*. Princeton: Princeton University Press.
62. Meese, James, et al. 2015. Posthumous personhood and the affordances of digital media. *Mortality* 20 (4): 408–420. https://doi.org/10.1080/13576275.2015.1083724.
63. Meltzer, Abraham C. 2022. When an algorithm violates the law: Deconstructing a study supposedly showing that an artificial intelligence algorithm makes better bail decisions than do judges. *Syracuse Journal of Science and Technology Law, (JOST)* 38 (2022–2023): 3–17.
64. Midson, Scott A. 2018. *Cyborg theology: Humans, Technology and God*. London: I.B. Tauris & Co., Ltd.
65. Mytum, Harold. 2006. Popular attitudes to memory, the body, and social identity: The rise of external commemoration in Britain Ireland and New England. *Post-Medieval Archaeology* 40/1 (2006): 96–110.
66. Nash, Roderick Frazier. 1989. *The rights of nature. A history of environmental ethics*. Madison: The University of Wisconsin Press.
67. Öhman, Carl, and Luciano Floridi. 2018. An ethical framework for the digital afterlife industry. *Nature Human Behavior*. https://doi.org/10.1038/s41562-018-0335-2.
68. Otto, Rudolf. 1959. *The idea of the holy: An inquiry into the non-rational factor in the idea of the divine and its relation to the Rational,* Trans. J.W. Harvey. Harmondsworth: Penguin Books.
69. Page, Stephanie T., John K. Amory, and William J. Bremner. 2008. Advances in male contraception. *Endocrine Reviews* 29 (4): 465–493. https://doi.org/10.1210/er.2007-0041.
70. Phan, Peter C., ed. 2011. *The Cambridge companion to the trinity*. Cambridge: Cambridge University Press.
71. Repole, Roberto, ed. 2018. *Il corpo alla prova dell'antropologia*. Milan: Glossa.
72. Ricca, Mario. 2022. *Intercultural spaces of law. Translating Invisibilities*. Cham: Springer.

73. Ricca, Mario. 2022. The 'Spaghettification' of performativity across cultural boundaries: The transculturality/trans-spatiality of digital communication as an event horizon for speech acts. *International Journal for the Semiotics of Law*. https://doi.org/10.1007/s11196-021-09880-4.
74. Ricca, Mario. 2023. Fenomenologia del sacro e filogenesi del soggetto di diritto. Sui sentieri antropologico-culturali della capacità giuridica. *Calumet Intercultural Law and Humanities Review*. Published online May 12, 2023.
75. Ries, Julien. 1995. L'homo religiosus e l'uomo nuovo nel diritto della Chiesa. Diritto canonico e antropologia cristiana. In *Antropologia, fede e diritto ecclesiale,* ed. Bertolino et al., 33–44. Milano: Jaca Book.
76. Roundtree, Cheyenne. 2023. Hollywood's fight against AI puts background actors in the spotlight. *Rolling Stone*. https://www.rollingstone.com/tv-movies/tv-movie-features/hollywood-actors-strike-ai-background-visual-effects-sag-aftra-1234792405/ Accessed 14 Nov 2023.
77. Schwitzgebel, Eric. 2023. The full rights dilemma for A.I. systems of debatable personhood. *ROBONOMICS: The Journal of the Automated Economy* 4 (2023): 1–18.
78. Scola, Angelo, Gilfredo Marengo, and Javier Prades. 2000. *La persona umana. Antropologia teologica*. Milano: Jaca Book.
79. Spadaro, Antonio. 2014. *Cybertheology: Thinking christianity in the era of the internet*. New York: Fordham University Press.
80. Stokes, Jonathan M., Kevin Yang, et al. 2020. A deep learning approach to antibiotic discovery. *Cell* 180: 4. https://doi.org/10.1016/j.cell.2020.01.021.
81. Stone, Christopher D. 2010. *(or. 1972 Should trees have standing? Law, morality, and the environment)*. Oxford: Oxford University Press.
82. Švorcová, Jana. 2023. Transgenerational epigenetic inheritance of traumatic experience in mammals. *Genes* 14 (120): 1–20. https://doi.org/10.3390/genes14010120.
83. Symes, Jack, ed. 2022. *Philosophers on consciousness. Talking about mind*. London: Bloomsbury Academic.
84. Thweatt-Bates, Jeanine. 2012. *Cyborg selves. A theological anthropology of the posthuman*. Surrey: Ashgate.
85. Tierney, Brian. 1997. *The idea of natural rights: Studies on natural rights, natural law, and church law 1150–1625*. Grand Rapids: William Eerdmans Publishing Company.
86. Toobin, Jeffrey. 2018. The solace of oblivion. In Europe, the right to be forgotten trumps the Internet. *The New Yorker,* Annals of Law, September 29, 2014 Issue.
87. Valvo, Anna Lucia. 2015. The right to be forgotten in the era of 'digital' information. *European Integration Studies*, 2 (2015).
88. Vazquez, Melisa. 2019. *Secularisms, religions and law. A legal-cultural inquiry*. Palermo: Torri del Vento.
89. Vazquez, Melisa. 2020. Culture, religion and the new geographies of law. Troubling takedowns in 'Ewa Glawischnig-Piesczek v. Facebook Ireland Ltd.' *Calumet Intercultural Law and Humanities Review*. Published online February 11, 2020.
90. Waters, Brent. 2016. *From human to posthuman: Christian theology and technology in a postmodern world*. Abingdon: Routledge.
91. Wolynn, Mark. 2016. *It didn't start with you. How inherited familly trauma shapes who you are and how to end the cycle*. London: Penguin Life.
92. Zolla, Elèmire. 1992. *Uscite dal mondo*. Milano: Adelphi.
93. Zweig, Paul. 1969/1980. *The heresy of self-love*. Princeton: Princeton University Press.