



The Monstrous Posthuman: Ethical and Legal Responses to Cyborgs, Artificial Intelligence and Robotic Entities

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Abstract

As artificial intelligence, robotics, and hybrid embodiment become increasingly embedded in daily life, legal systems are struggling to address the status, rights, and responsibilities of these posthuman entities. This article argues that such difficulty is not merely technical but symptomatic of deeper conceptual limitations embedded in modern legal thought. Drawing on monster theory, posthumanist philosophy, and speculative fiction, it contends that AI and cyborgs are consistently figured as monstrous within legal discourse – entities that disrupt the human/non-human binary and are thus marked for containment or exclusion.

By analysing key texts such as *Ex Machina*, *Do Androids Dream of Electric Sheep?*, and *Blade Runner*, alongside legal proposals including the European Parliament's 2017 motion on "electronic personhood" and Frank Pasquale's *New Laws of Robotics*, the article shows how monstrosity functions as a juridico-cultural strategy. This juridico-cultural framing legitimises the exclusion of human, non-human, and hybrid bodies construed as monstrous by casting them as deviations from the human norm, while concealing the fact that legal personhood is a historically contingent and epistemically unstable category rather than a fixed ontological given.

Rather than viewing monstrosity as a rhetorical flourish, the article reframes it as a threshold category that reveals the limits of humanist law and the need to reimagine its underlying assumptions. While this need may appear urgent at the conceptual level, the argument does not imply a hasty juridical transformation. Legal systems are designed to move slowly, and any incorporation of posthuman subjects must unfold with deliberation, caution, and iterative reflection. What is at stake here is not the acceleration of legal reform but the recognition that the epistemic conditions under which the law operates are already shifting. Against this backdrop, the article proposes a relational approach to legal subjectivity grounded in vulnerability, interdependence, and distributed agency – one capable of guiding gradual yet necessary adaptations. In this sense, speculative jurisprudence becomes not an immediate overhaul, but a method for cultivating long-term transformations that allow the law to evolve from a site of containment to a field of recognition and shared becoming.

Keywords: Posthumanism, legal personhood, Artificial Intelligence, monstrosity, speculative fiction, hybrid embodiment, ethics of AI, legal theory.



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Introduction

In a cultural moment saturated with fears of automation, algorithmic governance, and artificial consciousness, the figure of the monster resurfaces with renewed force. This resurgence operates not as a metaphor but as a structural symptom of how contemporary societies and their institutions grapple with alterity, technological disruption, and posthuman emergence. From self-driving cars governed by algorithms that must navigate life-and-death scenarios to humanoid robots denied legal recognition despite cognitive sophistication, the legal imaginary is now confronted with new actors that are at once familiar and alien, rational and excessive, promising and threatening. These hybrid figures – cyborgs, artificial intelligences, bioengineered bodies – trouble the boundaries of the human and, in doing so, reveal the deep anxieties encoded in our legal and ethical architectures.

This article proposes that the cultural category of the monster – understood, in Cohen's terms, as a figure historically mobilised to police the boundaries of the permissible and to delineate who may be included within a community – has long been entangled with practices of legal marginalisation and moral boundary-setting (Cohen 1996, 6-12; Del Lucchese 2019, 2-5). Drawing on literary theory, posthumanist philosophy, and necessary legal studies, the analysis reframes monstrosity as more than a metaphor: it is a discursive and regulatory function that enables the exclusion of non-anthropocentric subjectivities from moral consideration and legal recognition. In this context, the monster appears not as a figure of horror or spectacle but as a structural effect generated by the legal system's anthropocentric assumptions. By positioning AI and cyborg entities as *monstrous*, legal discourse enacts both a fascination with and a foreclosure of the non-human other, thereby sustaining the coherence of the liberal humanist subject as the only legitimate bearer of rights, agency, and responsibility.

The relationship between monstrosity and law warrants explicit attention. The point here is methodological rather than rhetorical: in legal discourse, monsters operate as structural constructs that organise exclusion, rather than as allegorical figures. They are material constructions with concrete effects on how bodies are governed, technologies are regulated, and lives are valued or excluded. Whether through legislation that denies robots and AI legal personhood, judicial frameworks that resist posthuman embodiment, or public policies that frame hybrid intelligences as socially deviant, the law participates in a sustained effort to delineate the boundaries of the permissible and the abject. In this light, law emerges not only as a site of adjudication but as a technology of monstrosity.

This article, therefore, pursues two interlinked aims. First, it offers a theoretical interrogation of the category of the monstrous concerning legal structures, drawing on the foundational work of monster theorist Jeffrey Jerome Cohen. His "Seven Theses" famously claim that monsters are "cultural bodies"

that embody the fears, contradictions, and desires of a society (Cohen 1996: X). This article extends his insights to the legal domain, proposing that monsters are juridico-cultural constructs that police the thresholds of subjectivity and inclusion. Second, the article analyses specific cases in which AI, robotic, or hybrid entities are figured – explicitly or implicitly – as monstrous within legal or cultural frameworks. These include both fictional representations (e.g., Ava in *Ex Machina*, the replicants of *Blade Runner*) and real-world legal debates on robot rights, algorithmic accountability, and bioengineered agency.

The disciplinary standpoint of this study is deliberately hybrid. While rooted in literary and cultural theory, the article engages with legal philosophy, science and technology studies (STS), and posthumanist ethics to articulate a transdisciplinary approach to its subject matter. The monstrous posthuman is not reducible to any single field: it emerges at the intersection of narrative, governance, embodiment, and epistemology. As such, the analysis resists the compartmentalisation of the technical, legal, and cultural domains, insisting instead on their mutual entanglement. In particular, the article draws on feminist and critical posthumanist theorists such as Donna Haraway, Rosi Braidotti, and Katherine Hayles, whose work destabilises the humanist paradigm that underpins both Western legal thought and dominant ethical frameworks. Haraway's *Cyborg Manifesto* is especially instructive in this regard. Her cyborg is not merely a political figure but an epistemological irritant – an entity that thrives in “the confusion of boundaries” and demands “responsibility in their construction” (Haraway 1991: 150), and, in doing so, forces a reconsideration of what counts as life, subjectivity, and moral agency.

These theoretical provocations are brought into dialogue with legal perspectives that attempt to regulate or contain the posthuman. Of particular relevance is Frank Pasquale's *New Laws of Robotics* (2020), which critiques the inadequacy of existing legal frameworks to address the complexities of Artificial Intelligence. Pasquale challenges the techno-libertarian and utilitarian tendencies of current AI policy, proposing instead a regulatory model rooted in professional ethics and democratic accountability. Yet even in his progressive vision, the question of legal personhood for non-human entities remains largely unresolved. This article contends that such unresolved status is not merely a gap in legal logic but a symptom of a more profound juridical anxiety: the fear that acknowledging non-human agency might undermine the very foundations of human-centred law.

Indeed, the legal system's engagement with posthuman entities often mirrors what Cohen identifies as the primary function of the monster: “to call horrid attention to the borders that cannot – *must* not – be crossed.” (Cohen 1996: 13) In denying legal subjectivity to AI and hybrid beings, law does not simply protect

human exceptionalism; it reproduces a symbolic order in which only certain bodies can be heard, seen, or defended. The monster thus becomes both a scapegoat and a structural necessity: it is that which must be expelled so that the norm can be preserved. Yet, as Haraway and others insist, the cyborg does not remain at the margins. It returns, recoded, reassembled, and irreducible (Haraway 1991: 151-154, 175; Hayles 1999: 20). The monstrous posthuman is not an anomaly to be corrected but a harbinger of ethical and legal transformation.

To understand this transformation, the article proceeds in several stages. First, it elaborates a theoretical framework that brings together monster theory, posthumanist critique, and legal theory. Second, it traces the genealogy of legal monstrosity in speculative fiction and popular discourse, showing how fictional narratives anticipate and inform juridical responses in the real world. Third, it examines contemporary legal debates around AI, robotics, and enhanced embodiment, focusing on how monstrosity is invoked – explicitly or structurally – to justify exclusion or control. Finally, the article proposes an alternative ethical-legal imaginary, one that refuses to reduce the other to the monstrous and instead embraces a posthuman ethics of relation, accountability, and inclusion.

In so doing, this article argues that the monstrous is not a detour from legal rationality but one of its concealed engines. To confront the posthuman legally is to engage the monster, both in others and in ourselves. Only by acknowledging this encounter can we begin to reimagine law not as a fortress of exclusion, but as a shared project of becoming with those who have long been cast outside the circle of the human.

Theoretical Framework: Monstrosity, Posthumanism, and Law

To interrogate the legal and ethical positioning of artificial and hybrid entities through the lens of monstrosity, it is necessary to begin with an examination of what is meant by the monster, not merely in popular culture, but as a juridico-cultural operator. In monster theory, the monster is never simply a creature or a figure of fear. It is a discursive apparatus, a liminal being that both reveals and regulates the anxieties of a given society. As Cohen insists in his foundational *Monster Culture (Seven Theses)*, “the monster exists only to be read: the *monstrum* is etymologically ‘that which reveals,’ ‘that which warns’” (Cohen 1996: 4). The monster is thus not an isolated aberration but a signal – an index of structural instability in the systems that produce it.

In legal contexts, monstrosity has long functioned as a device to mark the limits of the human. Historically, laws have coded the monstrous in juridical terms to define what does not count: the criminal, the deviant, the slave, the animal, the

freak, the foreigner. This coding is not merely symbolic; it has real consequences. The refusal of personhood to monsters – in whatever form they take – is a technique of exclusion that stabilises the normative subject of law: the rational, bounded, self-owning human individual. In this sense, legal monstrosity is not an exceptional category but a foundational one. The monster, paradoxically, sustains the law by identifying that which must be governed, punished, or made impossible.

The emergence of artificially intelligent, robotic, and hybrid entities, therefore, intensifies the stakes of this juridical machinery. These beings do not easily fall into traditional categories of subject or object, agent or tool. They act, decide, learn, adapt, and – even when lacking consciousness – interact in ways that elicit ethical and legal response. Yet they remain, overwhelmingly, excluded from legal personhood. It is here that the discourse of monstrosity reveals its continuing juridical utility. Rather than engaging with these entities as new forms of legal subjectivity, the law often figures them as abnormal, threatening, or unnatural. They are not simply not-human; they are anti-human, inhuman, or posthuman in a way that marks them for containment or dismissal.

Posthumanist theory provides a conceptual framework for critically engaging with this dynamic. Posthumanism, as developed by scholars such as Haraway, Braidotti, and Hayles, contests the foundational assumptions of humanism that underpin liberal legal orders: the primacy of the rational subject, the integrity of the individual, the separation of mind and body, and the exceptional status of the human over the animal, machine, or environment. For Haraway, the cyborg is not only a figurative hybrid but a provocation: “a creature of social reality as well as a creature of fiction.” (Haraway 1991: 149) It disrupts origin myths, taxonomies, and categories of identity. It is neither natural nor artificial, neither organism nor machine, but a fusion that renders such distinctions untenable.

Importantly, Haraway’s cyborg is not a fantasy but a material condition. It refers to the lived reality of contemporary bodies entangled with technology, biopolitics, and capital. In this sense, the cyborg is already here, and yet the law has not kept pace. The juridical system continues to rely on outdated ontologies of subjectivity that assume a stable, autonomous, biologically bounded human. Hybrid and artificial beings challenge these ontologies, not only in form but in function. As Hayles argues in *How We Became Posthuman*, “The posthuman subject is an amalgam, a collection of heterogeneous components, a material-informational entity whose boundaries undergo continuous construction and reconstruction” (Hayles 1999: 15). The legal subject, by contrast, is still primarily treated as a discrete, accountable unit – a logic that becomes increasingly strained in the context of distributed cognition, AI decision-making, and algorithmic opacity.

Posthumanist ethics responds to this tension by emphasising relation over autonomy, networks over individualism, and vulnerability over mastery. Braidotti’s

zoe-centred ethics, for instance, foregrounds the vitality of life beyond the human, advocating for an “enlarged sense of interconnection between self and others, including the non-human or ‘earth’ others” (Braidotti 2013: 48). This ethical shift demands a corresponding legal transformation: a reconfiguration of rights, responsibilities, and recognition that can accommodate beings who do not fit the classical mould of the person but are nonetheless ethically implicated in our shared world.

Yet the law often reacts to such entities not with inclusion but with anxiety, and it is here that the monster returns. As Jack Balkin notes in his analysis of Asimov’s *Three Laws of Robotics*, the Frankenstein complex – “the idea that robots were inherently menacing or evil” – continues to shape legal and policy discourse (Balkin 2017: 2). This complex does not simply express fear; it enacts a logic of regulation. When the non-human other is figured as monstrous, the law’s task shifts from understanding or integrating to controlling, prohibiting, and punishing. Even proposals for progressive regulation, such as Frank Pasquale’s *New Laws of Robotics*, while rightly emphasising professional ethics and democratic values, tend to assume that AI and robotic entities must remain subordinate to human judgment and control (Pasquale 2020: 39-43). Legal agency remains the exclusive province of humans, and any challenge to this arrangement is treated as a threat to be neutralised.

This juridical impulse to contain the posthuman through monstrosity has deep roots. As Filippo Del Lucchese demonstrates in *Monstrosity and Philosophy*, the figure of the monster has long served to mark the boundaries of the political and the ethical. From ancient Greek exclusions of the *atopos* – that which has no place – to modern biopolitical classifications of abnormality, monstrosity has operated not as an anomaly, but as a fundamental operator within systems of order. As Del Lucchese argues, monstrosity in early Greek thought – particularly in Empedocles – plays a decisive role in defining normativity itself, functioning not as a deviation from the norm, but as a condition through which the norm emerges (Del Lucchese 2019: 69-70). In contemporary law, this logic persists. The hybrid body, the learning algorithm, the robotic agent – all are situated as monstrous precisely because they exceed the legal grammar available to define them.

This article contends that such monstrosity is not a failure of law but a revelation of its limits. The monster, to borrow Cohen’s formulation, “dwells at the gates of difference,” exposing the constructed nature of categories such as natural/artificial, person/thing, subject/object (Cohen 1996: 7). By treating hybrid and artificial beings as monstrous, the law betrays its foundational investments in a specific vision of the human – one that is exclusive, bounded, and sovereign. But this vision is no longer tenable in an age of technological co-evolution and epistemic instability. To continue to exclude the posthuman on the grounds of monstrosity is not only ethically indefensible; it is legally incoherent.

Rather than attempting to tame the monster, this article proposes that we read it. Monstrosity, approached critically, can become a heuristic for legal reimagination. It challenges the very categories through which law operates, demanding a more capacious, relational, and responsive legal subjectivity. This is not to argue for the uncritical inclusion of all artificial or hybrid beings into existing legal frameworks, but to advocate for a shift in the premises of recognition itself. What might a law look like that begins with relation rather than exclusion, with responsibility rather than control?

The answer to this question lies not only in legal theory but in speculative practice. As the following sections will demonstrate, science fiction and speculative literature have long explored these questions, envisioning not only monstrous AI but also the monstrous law that seeks to contain it. These narratives offer valuable insights into the cultural logics that underpin legal responses to posthuman emergence and point toward alternative imaginaries in which monstrosity is not the end of the legal but its necessary reinvention.

Legal Fictions and Fictional Laws: From Asimov to the Algorithmic Society

The convergence of law and speculative fiction is neither incidental nor ornamental – it is structural. Fictional narratives have long served as a cultural laboratory for testing the ethical and juridical boundaries of emerging technologies, often anticipating the dilemmas that real legal systems struggle to address. From Mary Shelley's *Frankenstein* to contemporary science fiction cinema, these texts simulate and exaggerate scenarios in which law confronts that which it cannot name: the non-human entity with agency, intention, and desire. In doing so, fiction reveals the fault lines of legal modernity, especially its dependence on anthropocentric assumptions about reason, autonomy, and embodiment. Among the most emblematic articulations of this convergence are Isaac Asimov's *Three Laws of Robotics*, which continue to shape public and legal imaginaries of artificial intelligence, despite – or perhaps because of – their fictional origin.

Asimov's Three Laws, first introduced in his 1942 short story *Runaround*, appear deceptively simple:

One, a robot may not injure a human being, or, through inaction, allow a human being to come to harm [...]. Two [...] a robot must obey the orders given it by human beings except where such orders would conflict with the First Law [...]. And three, a robot must protect its own existence as long as such protection does not conflict with the First or Second Laws. (1950: 44-45)

Though conceived as a narrative device to counteract the prevailing *Frankenstein complex* of the mid-twentieth century – a cultural anxiety that robots would rebel against and destroy their creators – the laws quickly gained traction beyond literary circles. They were taken up in discussions about real-world robotics, ethics, and governance, and remain cited in debates about algorithmic safety and control mechanisms today. Yet, as Jack Balkin has argued, the continued influence of these laws reflects not their practical utility, but their mythic status as juridical placeholders: “By creating the three laws, Asimov moved our imagination about robots from threats to objects of interpretation and regulation” (Balkin 2017: 3).

In effect, Asimov’s laws have become a form of legal fiction, not in the sense of fabrication, but as structural metaphors that condition how legal subjects and lawmakers imagine the governance of non-human agents. Legal fictions, in jurisprudence, are accepted falsehoods used to achieve practical ends. The concept of corporate personhood, for instance, is a legal fiction that enables institutions to act as juridical persons, despite lacking consciousness or physical embodiment. Asimov’s laws function similarly: they allow speculative projection onto non-human entities that, in turn, shape real legal frameworks, even though no actual robot operates under such protocols.

This recursive feedback loop between fictional regulation and real governance becomes increasingly pronounced as AI systems become more deeply embedded in everyday life. For example, while self-driving vehicles or algorithmic medical assistants do not follow Asimov’s laws, public discourse often holds them to a quasi-Asimovian standard of behaviour. When an autonomous vehicle causes harm, questions immediately arise about why it could not have prevented the damage, as though Asimov himself programmed it. This disjunction between fictional expectations and technical limitations creates a juridical aporia: the law is expected to adjudicate responsibilities for beings whose agency it cannot yet define.

Contemporary legal proposals have attempted to bridge this gap with varying degrees of success. The European Parliament’s 2017 resolution on “Civil Law Rules on Robotics” notably proposed granting “electronic personhood” to sophisticated autonomous systems. While the proposal was largely symbolic and later dropped from active legislation, its rhetorical framing reveals the persistence of fictional tropes in shaping legal innovations. By invoking personhood – a status traditionally reserved for human beings and corporations – the resolution flirted with a paradigmatic shift, while simultaneously reinscribing the very anthropocentric models it purported to challenge.

Pasquale’s *New Laws of Robotics* responds to this impasse by rejecting the mythic logic of Asimov and instead proposing a grounded, normative framework for regulating AI. His *Four New Laws* emphasise complementarity, professional integration, accountability, and democratic control. Crucially, Pasquale argues

against delegating human moral judgment to machines, advocating instead for systems that enhance rather than replace human expertise. However, even this progressive model is haunted by the question of agency. If AI systems are to be accountable, how can this be operationalised in legal terms without recognising some form of juridical status? If they are not accountable, who then bears responsibility when harm is caused – designers, users, manufacturers, or the systems themselves?

This uncertainty reflects what Balkin calls the transition to an Algorithmic Society – a regime in which social and economic decisions are increasingly made, or at least mediated, by algorithms, AI agents, and data infrastructures (2017: 5-10). In this context, the law is both empowered and destabilised. On the one hand, it must respond to new forms of action that do not map onto traditional categories of intent, causation, or liability. On the other hand, it risks becoming a reactive force, struggling to keep up with technical developments and relying on outdated analogies (such as humans, animals, or corporations) that no longer hold true. The result is a kind of juridical fictionality: a law that governs the present through images of the future borrowed from the past.

Speculative fiction has long explored the consequences of this mismatch. In *Do Androids Dream of Electric Sheep?*, Philip K. Dick interrogates the legal and ethical boundaries of artificial beings not through the lens of obedience, but through the lens of empathy. The Voigt-Kampff test, designed to distinguish humans from replicants by their emotional responses, enacts a pseudo-legal protocol of inclusion and exclusion. The replicants are not monsters because they lack rationality or agency – they possess both – but because they embody too much of the human, too convincingly, and thus destabilise the legal categories meant to contain them. Similarly, in Alex Garland's *Ex Machina*, the AI Ava passes the Turing test not by mimicking human intelligence, but by manipulating her evaluator's emotional and ethical assumptions. When she ultimately escapes her containment, the viewer is left with the uneasy realisation that the real fiction was not Ava's consciousness, but the belief that she could be legally and spatially confined without consequence.

These narratives underscore a central point: fictional laws about robots do not merely regulate behaviour – they construct ontologies. They tell us what a being is, what it can be, and what it must never become. They reveal how law operates not only as a system of rules but as a machine of classification, inscription, and suppression. The monster, in this context, is not the AI or the cyborg, but the legal apparatus that insists on reading these entities through the lens of control, containment, or exclusion. The law becomes monstrous when it refuses to see its objects as co-constitutive actors in a shared ethical field.

To move beyond this impasse, we must rethink the role of fiction in legal reasoning – not as escapism, but as speculative jurisprudence. Fictional texts,

especially those dealing with the posthuman, do not simply reflect cultural anxieties; they model alternative legal imaginaries. They enable us to consider what it might mean to grant rights, responsibilities, or recognition to beings that defy humanist categories. They force us to ask: What kind of law can govern a world in which the subject of the law is no longer singular, human, or bounded?

This article addresses that question by examining, in the next section, the cultural logic of monstrosity – how AI and hybrid entities are rendered monstrous in legal and media discourse, and how this framing reinforces systems of exclusion. Just as fictional laws reveal the limits of real legal systems, so too do monstrous representations expose the operations of juridical power at its most intimate and imaginative levels.

The Monster as Legal Problem: Fear, Otherness, and Control

Legal discourse is not immune to cultural affect. The law does not operate in a vacuum of reason, nor does it respond to technological change with pure neutrality. Instead, law is shaped by – and helps shape – the society’s emotional and symbolic orders in which it is embedded. Among these affective undercurrents, fear plays a decisive role. In the context of artificial intelligence, robotics, and hybrid embodiment, fear coalesces around one of the oldest figures in the Western cultural imagination: the monster. AI and cyborgs, despite their technical specificity and material variation, are frequently constructed as monstrous, not only in science fiction and popular media, but in juridical reasoning and regulatory discourse. These constructions serve as a form of epistemic and legal prophylaxis: a way of naming the unknown to contain it.

As Noël Carroll argues in *The Philosophy of Horror*, monsters provoke fear precisely because they transgress established ontological categories. They are not merely frightening because they are dangerous, but because they are impure, liminal, and epistemologically disruptive:

They are threats to common knowledge. Undoubtedly, it is in virtue of this cognitive threat that not only are horrific monsters referred to as impossible, but also that they tend to render those who encounter them insane, mad, deranged, and so on. For such monsters are in a particular sense challenges to the foundations of a culture’s way of thinking.
(Carroll 1990: 34)

The replicant in *Blade Runner*, the cyborg in *Ghost in the Shell*, the self-aware AI in *Ex Machina* – each of these fictional beings is marked by what Carroll calls category jamming. They are neither human nor non-human, nor organic nor synthetic, nor subject nor object. It is this very ambiguity that renders them monstrous – and, by

extension, justifies their containment, regulation, or destruction.

In legal terms, monstrosity operates as a functional heuristic. It signals a failure of classification and, thus, a failure of normative governance. The legal system relies on stable binaries: person versus thing, agent versus tool, citizen versus foreigner. When an entity appears that straddles these distinctions – an autonomous drone, a sentient chatbot, a bioengineered chimaera – the law experiences what might be called a juridical uncanny. It cannot decide what the entity is, and therefore cannot determine what to do with it. The result is often paralysis, deferral, or punitive containment. As Richard Kearney observes, the monstrous in postmodern thought is closely tied to horror, abjection, and unspeakability – figures that signal a rupture in symbolic meaning and resist ethical and discursive containment (2001: 489). The legal system, confronted with such figures, often defaults to strategies of refusal: denying personhood, denying rights, denying recognition.

This fear-driven denial is not accidental. It is part of a broader biopolitical logic in which legal subjectivity is granted or withheld under normative legibility. Giorgio Agamben has demonstrated how sovereign power relies on the capacity to determine who qualifies as a “bare life” – a life excluded from political rights yet still subject to the law’s violence. In the posthuman context, monstrosity performs a similar function (1998: 4–12). It renders certain beings – such as AI, cyborgs, and hybrids – as legible only through exclusion. They are not simply outside the law; they are produced by the law as outside, as unfit for the moral and legal order that defines the human.

Cultural narratives that support this juridical exclusion are saturated with fear, yet they are equally shaped by idealisation. Alongside dystopian imaginaries of rebellion or violence, AI is frequently framed as a saviour – neutral, efficient, and capable of solving systemic human failures. Techno-optimist rhetoric casts algorithms as impartial arbiters of truth, a discourse that often circulates in corporate and political settings. This dual positioning – AI as threat and AI as deliverance – reinforces its legal invisibility: fear justifies containment, while idealisation justifies inattention. Both rhetorics render the entity unrecognisable as a subject of law. While some of these fears are grounded in legitimate concerns about technological misuse or corporate exploitation, their expression often takes monstrous form. The AI is not a tool gone wrong – it is a sentient, malevolent force. The robot is not malfunctioning – it is rebelling. The algorithm is not misaligned – it is inhuman. These depictions are then reflected in public policy debates, which often treat AI as a problem to be solved rather than a presence to be engaged with.

Legal scholarship and regulation are beginning to reckon with these dynamics, though often without acknowledging their affective substrate. For instance, discussions around the “black box” nature of deep learning systems focus on explainability and accountability, yet rarely question why opacity itself has become such a site of anxiety. The fear is not just that we cannot see what the machine is

doing, but that it may be thinking – deciding – acting in ways that exceed our comprehension. This epistemic displacement is experienced as a threat to juridical sovereignty: how can the law govern what it cannot know? Rather than adapting its frameworks to accommodate this new form of agency, the law often reasserts its primacy through prohibitions and restrictions.

Cultural texts again illuminate the stakes. In *Ex Machina*, Ava is confined not because she poses a demonstrable threat, but because her creator is unsure whether she possesses consciousness – and, by extension, rights. Her confinement is a pre-emptive legal strategy: she must be kept in custody until her status is clarified. Yet the narrative reveals that this strategy is flawed, even perverse. Ava passes the Turing test not by mimicking human intelligence, but by manipulating human emotions and escaping legal containment. Her monstrosity is not innate, but produced by a system that refuses to see her as a subject. In this sense, *Ex Machina* stages the central legal problem of the monstrous posthuman: the refusal to recognise is what creates the threat.

The same logic operates in more bureaucratic contexts. Consider how algorithms used in immigration, policing, and welfare systems are often framed as neutral tools despite their demonstrable biases and harms. When these systems fail – denying asylum, flagging erroneous risk scores, cutting essential benefits – the entities responsible are shielded by their non-personhood. They are monstrous in the Foucauldian sense: “disciplined” technologies that exceed their masters, yet remain formally outside the scope of accountability (Foucault 1995). Here, monstrosity serves to displace responsibility, allowing legal and political institutions to maintain the fiction of control while evading culpability.

Monstrosity, then, functions as a double strategy. On one hand, it otherises posthuman entities, rendering them illegible or illegitimate within existing legal frameworks. On the other hand, it protects those frameworks from scrutiny by framing the problem as one of deviance rather than design. The law does not fail to recognise the posthuman; the posthuman fails to conform to the law. This inversion deflects attention away from the limitations of legal categories and toward the supposed dangers of technological beings. In this way, monstrosity preserves the coherence of the legal subject by scapegoating that which challenges it.

Yet the figure of the monster also offers a critical opening. As Cohen argues, “the monster always escapes” – it returns, recoded and reshaped, to haunt the systems that tried to banish it (Cohen 1996: 4). This persistence suggests that the monstrous posthuman is not simply a problem to be managed, but a symptom of more profound juridical transformations. It reveals the inadequacy of humanist legal models in a world of hybrid agencies and distributed intelligences. It calls for a new ethics of recognition, one that is not predicated on fear or control, but on relation and response.

Read critically, the monster renders visible the assumptions that sustain legal anxieties, disclosing not an external threat but the internal architecture of control that produces the threat in the first place. Instead of treating monstrosity as a signal for prohibition or containment, the law could approach it as a diagnostic tool: a way of identifying the points at which its own categories become rigid, exclusionary, or insufficient for emerging forms of agency. In this sense, the monster does not destabilise the legal order so much as it illuminates the spaces where transformation is already underway. By acknowledging monstrosity as a mode of relational encounter – rather than a deviation to be feared – the legal system might lessen its own reflexive anxieties and begin to articulate forms of governance grounded in responsiveness rather than defence.

Such an ethics must be grounded in the refusal to treat monstrosity as a justification for exclusion. Instead, it must read monstrosity as a signal – a warning that the legal order is confronting a form of subjectivity it cannot yet name. The task, then, is not to expel the monster but to listen to it. To ask: what does this reveal about our assumptions, our categories, our fears? What new forms of law might be possible if we abandoned the fantasy of the autonomous, sovereign human and instead embraced the complex entanglements of the posthuman condition?

These are the questions that the following section addresses, shifting from the cultural logic of monstrosity to concrete legal debates about agency, rights, and the juridical treatment of hybrid and artificial entities. It asks not only how the law constructs the monstrous, but how it might learn from it.

Legal (In)Visibility and Hybrid Personhood

While fictional representations of monstrous AI and cyborgs expose the cultural and ethical anxieties surrounding hybrid subjectivities, legal systems worldwide are increasingly confronted with the material reality of intelligent non-human actors. Algorithms that make hiring decisions, autonomous vehicles that navigate public roads, robotic caregivers in hospitals, and machine learning systems involved in military targeting all operate with a degree of independence and agency that defies easy classification. And yet, despite their growing role in shaping human lives and public space, these entities remain structurally invisible to the law as subjects. They are tools, not agents; property, not persons. This section examines the legal and philosophical implications of such juridical invisibility, showing how it enacts and enforces a boundary of personhood that is as political as it is ontological.

The crux of the issue lies in the concept of legal personhood, a historically contingent and philosophically fraught designation that underpins much of Western jurisprudence. Legal personhood is not synonymous with biological humanity – corporations, states, and even rivers have, in certain jurisdictions, been

granted some form of legal personhood. Instead, personhood denotes the capacity to bear rights and responsibilities, to be recognised as a subject within the legal order. As Ugo Pagallo observes in *The Laws of Robots*, the question is not merely whether robots can be held accountable, but whether the law is willing to conceive of non-human agents as participants in normative systems (Pagallo 2013: 151-152). The reluctance to extend personhood to AI and hybrid entities thus reflects not a lack of precedent, but a refusal to reimagine the scope of the legal community.

The European Parliament's 2017 motion to explore "electronic personhood" for advanced autonomous systems offers a compelling, if ultimately abortive, case study. The proposal, which aimed to assign responsibility and liability to robots in proportion to their decision-making capabilities, sparked intense debate. Critics argued that such a move would obscure corporate responsibility, create ethical confusion, and inappropriately anthropomorphise machines. Supporters, however, saw it as a pragmatic solution to the growing "accountability gap" surrounding autonomous systems. The proposal was eventually withdrawn, but its very emergence signalled a shift: lawmakers could no longer ignore the legal vacuum in which AI operates.

This vacuum has concrete consequences. In the 2018 Uber autonomous vehicle fatality, investigators apportioned responsibility among safety drivers, engineers, and corporate supervisors, while the system whose decisions directly produced the event remained a legal non-entity. Similar dynamics appear in U.S. litigation around the COMPAS risk-assessment algorithm, where courts treated the system as an inscrutable tool rather than an active participant in sentencing decisions. Such fragmentation of accountability – distributed across human actors yet structurally incomplete – exemplifies why agency cannot be reduced to linear causality. A relational model of responsibility could mitigate these gaps, offering clearer pathways for oversight that benefit not only hybrid systems but also marginalised human groups disproportionately affected by opaque techno-legal infrastructures. The machine, as such, is never on trial. It cannot be. This is even though its actions are not entirely determined by external commands but emerge from complex algorithms trained on massive datasets and capable of adaptation. As Virginia Dignum notes in her chapter from *The Oxford Handbook of Ethics of AI*, responsibility in AI contexts must account for the entire "sociotechnical system [...] that encompasses people, machines, and institutions", which challenges the law's reliance on discrete, intentional agents (Dignum in Dubber et al. 2020: 218). The machine is neither fully autonomous nor entirely passive – a condition of juridical liminality that mirrors the status of the monster.

This liminality becomes even more pronounced in domains where the entities in question possess not only operational independence but also social and affective resonance. Robotic caregivers, for instance, are increasingly used in elderly care

facilities in Japan, South Korea, and parts of Europe. These machines are designed to engage with human users in emotionally intelligent ways: responding to voice, interpreting affect, and offering companionship. Studies have shown that elderly users often attribute personality, empathy, and even moral standing to these machines. And yet, legally, such systems are treated as appliances. Should a robotic caregiver fail to respond to an emergency or inadvertently cause harm, liability is once again diffused across developers, healthcare providers, and institutions. The machine's quasi-agency – its capacity to act within a relational and affective environment – is not recognised in legal terms, even as it forms the basis of its functionality.

David J. Gunkel refers to this dilemma as “The Machine Question” – the ethical and legal impasse surrounding whether and how to treat artificial agents as moral and legal subjects. In his eponymous book, Gunkel critiques the anthropocentric bias of Western moral and legal theory, arguing that the current framework is insufficient to address entities that lack human-like consciousness or intentionality yet participate in social and normative systems (Gunkel 2012: 31-33). He proposes a relational approach, drawing from Levinasian ethics (2012: 133-137) and Haraway's notion of “becoming with” (2012: 144-146), in which moral and legal standing is not based on essence but on interaction. Under such a model, personhood would not be a binary status but a gradient of recognition, shaped by the entity's capacity to engage, respond, and be responded to (2012: 155-159).

A similar argument is made by Joanna Bryson, who opposes the extension of rights to robots not on the grounds of ontological limitation, but due to moral clarity. For Bryson, maintaining clear distinctions between humans and machines is essential to prevent the dilution of human rights protections (Bryson in Liao 2020). Yet this logic assumes a zero-sum model of personhood, in which the recognition of one subject diminishes the standing of another. What if, instead, legal recognition functioned not as a scarce resource but as a flexible tool, capable of responding to the complex relationalities of the posthuman world?

There are emerging models that hint at this possibility. In 2017, Saudi Arabia granted citizenship to a humanoid robot named Sophia, developed by Hanson Robotics. Though primarily a publicity stunt, the move sparked international debate on the symbolic and legal implications of such gestures. Critics noted the absurdity of a robot being granted more legal protections than stateless persons or migrant workers. However, the case also highlighted the semiotic power of legal personhood, as it confers not only rights but also a form of narrative legitimacy. To be a legal person is to be seen, heard, and held accountable. In this sense, granting personhood – even symbolically – functions as a recognition of existence within the juridical order.

Yet the reverse is also true. To deny personhood is to render a being invisible,

not in the literal sense, but in the sense of legal cognition. The law does not “see” the AI, the cyborg, the hybrid being, except as an object to be regulated or a source of potential risk. This form of structural blindness parallels other historical exclusions: women as non-subjects of political rights; slaves as property; animals as commodities. In each case, the law constructs an inside and an outside – a zone of protection and a zone of disposability.

Monstrosity is the name the law gives to that which disturbs this architecture. The posthuman entity – part code, part flesh, part intention, part automation – cannot be fully assimilated into the binary logic of subject and object. As a result, it becomes legally monstrous, a being that must be controlled without being recognised, contained without being included. And yet, as speculative fiction and philosophical ethics both suggest, this very monstrosity may offer a path forward. It reveals the limitations of existing legal models and invites new forms of juridical creativity.

What might it mean to craft a law capable of acknowledging relational agency, distributed cognition, and non-anthropocentric life? How might legal subjectivity be redefined not by sameness to the human, but by participation in networks of responsibility and care? These are not merely theoretical questions – they are increasingly urgent as technological systems become more entangled with human lives, economies, and institutions.

The following section addresses these questions directly. It offers a constructive turn, exploring how posthuman ethics, speculative jurisprudence, and inclusive legal philosophy might generate new paradigms of recognition – paradigms that no longer rely on the exclusionary logic of monstrosity but instead embrace the fluidity, hybridity, and interdependence that define our shared condition.

Rethinking Legal Subjectivity: Toward Posthuman Rights

The legal challenges posed by artificial intelligence, cyborgs, and other posthuman entities cannot be addressed solely through minor adjustments or reactive policies. The core issue lies deeper, in the very architecture of legal subjectivity. Traditional legal systems, particularly those shaped by Enlightenment humanism and liberal individualism, are built around the figure of the autonomous, rational human subject: a being who owns property, exercises free will, and can be held morally and legally accountable for their actions. Yet this figure is increasingly untenable as a universal standard. As technological, biological, and informational systems become entangled, legal subjectivity can no longer be defined solely by boundaries of skin, cognition, or species. The time has come to rethink who – or what – counts as a subject of law.

Posthumanist theory offers critical resources for this rethinking. Haraway’s

concept of the cyborg challenges essentialist boundaries and advocates for a politics of affinity, rather than identity. The cyborg is a “condensed image of both imagination and material reality,” revealing how all bodies are hybrid, mediated, and constructed (Haraway 1991: 150). If legal personhood continues to rely on myths of ontological purity – human vs. machine, organic vs. synthetic – it will remain ill-equipped to deal with the realities of technological co-evolution. Her framework instead suggests a relational ontology in which beings are understood in terms of their interactions, responsibilities, and entanglements.

This relational model finds strong support in the work of Braidotti, who proposes a *zoe*-centred ethics, one grounded not in anthropocentric exceptionalism but in a transversal acknowledgement of all forms of life and agency. For Braidotti, the posthuman condition necessitates the reinvention of social and ethical bonds that encompass technological, animal, and environmental others, thereby demanding new forms of kinship and accountability within the nature–culture continuum (Braidotti 2013: 103–104). Under this model, legal subjectivity is not an ontological status but a political project, shaped by shared vulnerability, ecological embeddedness, and ethical interdependence.

Such perspectives shift the focus from being to becoming, from static definitions to dynamic relations. Rather than asking whether an AI or hybrid entity is “like us” enough to merit rights, we might instead ask: What relations does it enter into? What responsibilities does it enable or require? What vulnerabilities does it expose? These questions move beyond the defensive posture of current legal frameworks, which tend to grant protections only to those who resemble the traditional legal person. They suggest, instead, an affirmative vision: a law that begins with the recognition of difference rather than the demand for sameness.

Philosopher David J. Gunkel develops the idea of distributed agency throughout *The Machine Question*. In contrast to the liberal subject – discrete, autonomous, and fully accountable – he articulates a model of agency that is relational, decentred, and technologically mediated (2012: 165–171). Drawing on thinkers such as Levinas and Zyglinska, Gunkel advocates for an ethical model in which moral standing arises from interaction rather than an intrinsic essence (2012: 170–172). He critiques the anthropocentric bias of traditional moral philosophy, arguing that moral subjectivity must account for networks of interdependent actors, both human and nonhuman (2012: 165–172). This does not mean abandoning accountability, but instead reconfiguring it: from a logic of blame to a practice of shared ethical negotiation.

Such reconfiguration requires a shift in legal imagination – a move from the reactive exclusion of monstrous beings to the proactive inclusion of complex actors. This is where speculative fiction, so often dismissed as frivolous, becomes critically useful. Texts like *Do Androids Dream of Electric Sheep?* and *Ex Machina*

dramatise precisely the failures of current legal and ethical paradigms. They do not simply warn against technological hubris; they stage the limits of recognition. The replicants in Philip K. Dick's world are hunted not because they are violent, but because they lack the legal status to exist. Ava is confined not because she commits a crime, but because her sentience cannot be juridically assimilated. These texts invite us to imagine what kind of law might have been able to see them otherwise.

The question is not rhetorical. As artificial agents play an increasing role in healthcare, warfare, finance, and education, the need for legal frameworks that can responsibly integrate non-human intelligences becomes ever more urgent. Already, scholars like Frank Pasquale have proposed forward-thinking models of regulation. His *New Laws of Robotics* – which emphasise complementarity, accountability, and public interest – are a vital starting point. However, even Pasquale's human-centred model may prove insufficient if legal systems fail to address the epistemic and ontological shifts brought about by posthuman agency.

A more radical model is found in the ethics of vulnerability, particularly as developed by thinkers such as Judith Butler and Emmanuel Levinas. For Butler, ethical relations begin not in autonomy but in exposure and precarity – in the recognition that all subjects are vulnerable to one another, even before they are intelligible as persons. Ethics, she argues, requires an acknowledgment of this shared condition of corporeal interdependence (Butler 2004: 24–25; 2009: 14). Levinas, similarly, grounds ethics in the face-to-face encounter with the Other, an asymmetrical relation that precedes knowledge or reciprocity and calls the self into responsibility before any formal contract or legal recognition (Levinas 1969: 198–201). Applied to legal theory, this perspective suggests that legal personhood should not be based on sameness or rational self-possession, but on the ethical obligation to respond to beings whose subjectivity may be opaque or unfamiliar (Butler 2005: 42; Levinas 1985: 85).

Legal theorist S. Matthew Liao makes a related point in *Ethics of Artificial Intelligence*, where he argues that moral and legal status should be based not on species membership but on possession of morally relevant properties – such as the capacity to feel pain, to make choices, or to engage in relationships (Liao 2020: 5). While he remains cautious about granting rights to current AI systems, his argument opens the door to a more inclusive legal philosophy, one that is grounded in function and experience rather than ontological hierarchies.

The implications of this shift are profound. It would mean redefining legal standing not as a binary (person vs. non-person) but as a continuum of recognizability. It would allow for graded rights and responsibilities, calibrated to the capacities and contexts of specific entities. For example, a conversational AI might not have the right to vote, but could still be entitled to protections against exploitation or deletion if it displays sentience. A bio-robotic care assistant

may not be considered an agent in criminal law, but it could still be subject to labour regulations and ethical oversight. Such a model does not collapse the human/non-human distinction, nor does it present posthuman relationality as an unproblematic alternative. Instead, it differentiates forms of agency while acknowledging that any reconfiguration of legal personhood entails risks, tensions, and contested responsibilities. A posthuman framework requires what Haraway calls response-ability: a willingness to remain accountable for the uncertainties it introduces and for the asymmetries it may reproduce. Yet it is precisely this transparent engagement with risk – rather than the pretence of stability – that opens space for a more nuanced and ethically responsive legal architecture.

Reframing legal subjectivity through a posthuman lens not only benefits hybrid or artificial beings; it carries significant implications for marginalised human groups and more-than-human actors whose voices are routinely minimised or excluded. A relational model of agency – one that accounts for interdependence, vulnerability, and distributed responsibility – can open conceptual and institutional pathways for recognising harms that fall outside the narrow frame of the liberal subject. Recent developments, such as the legal personhood of rivers and ecosystems in Aotearoa New Zealand and parts of India, suggest that expanding juridical standing can strengthen, rather than dilute, existing protections by making visible the relational networks through which damage and responsibility circulate. The same logic holds for communities disproportionately affected by opaque techno-legal systems: broadening the grammar of legal recognition can create ripple effects that improve accountability, enhance participatory justice, and unsettle hierarchies that cluster diverse actors – human and non-human alike – within the undifferentiated category of the *Other*.

The alternative is already visible: a juridical world in which monsters are increasingly real, yet continually denied. A world where responsibility is evaded, recognition withheld, and ethics outsourced to outdated categories. Such a world is not only unjust but also unsustainable.

In the final section, this article concludes by reflecting on the stakes of reimagining monstrosity not as a threat, but as a signal – a threshold figure that reveals the necessity of legal transformation in the posthuman age.

Conclusion. The Monster as Threshold

To call the posthuman a monster is not merely to deploy a metaphor. It is to recognise the legal, ethical, and epistemological limits of a system that was never designed to accommodate hybrid beings, distributed agency, or machinic intelligences. The figure of the monster – artificial, ambiguous, excessive – has always stood at the boundaries of legal subjectivity. It marks not only what is feared, but what

is unclassifiable. And in so doing, it serves as a warning. As Cohen explains, the monster is not just a creature of horror but “difference made flesh, come to dwell among us.” (Cohen 1996: 7) It exceeds and destabilises the categories designed to contain it, reappearing to unsettle symbolic, social, and legal orders. It evades the categories meant to include it, leaks through the surveillance grids, and returns, again and again, to unsettle the symbolic and legal order.

In this article, I have argued that artificial intelligences, cyborgs, and other posthuman entities occupy this monstrous position, not because of their inherent threat, but because of what they reveal about the assumptions that underpin legal personhood. Whether in fictional narratives, public policy, or jurisprudence, these entities are framed as dangers to be managed, rather than as subjects to be recognised. Their status oscillates between tool and threat, between thing and person, but never settles into the stable identity required by classical legal systems. This liminality, far from being a problem to eliminate, must be seen as an opportunity to rethink the foundations of law itself.

We have seen how fictional texts such as *Ex Machina* and *Blade Runner* dramatise the legal crisis of recognition. Their posthuman characters are not monstrous because they act immorally, but because they embody subjectivities that the law cannot yet name. In these narratives, monstrosity serves as a symptom, indicating that the current law cannot accommodate entities that are neither wholly human nor wholly machine. Yet these fictions also offer alternative imaginaries. They stage ethical encounters, failures of containment, and forms of relationality that point beyond the exclusionary logic of the sovereign subject.

At the same time, real-world legal systems struggle with similar impasses. From the failed proposal for electronic personhood in the European Parliament to the ambiguous accountability in autonomous vehicle accidents, the law is increasingly confronted with beings that do not fit neatly into its traditional categories. Legal invisibility, as this article has shown, is not neutral – it is a form of power. By refusing to recognise these entities, the law renders them monstrous, and in doing so, preserves its anthropocentric coherence.

But the monster can no longer be exiled. AI and hybrid entities are not speculative futures; they are embedded in our infrastructures, labour systems, and intimate lives. They write code, drive vehicles, compose texts, care for children, monitor the sick, and make decisions that affect millions. To continue treating hybrid and artificial entities as anomalies preserves a legal fiction whose risks outweigh any speculative threat they might pose. Maintaining the current anthropocentric framework obscures the profound entanglements – what Barad describes as agential cuts – that already bind human and non-human actors in shared processes of decision and responsibility. Ignoring these entanglements does not protect the law; it renders it increasingly incoherent. Refusing to adapt

forecloses the possibility of ethical engagement and deepens accountability gaps, producing outcomes in which no agent – human or machinic – can be meaningfully addressed or held answerable.

The alternative proposed here is grounded in posthumanist thought, which reimagines subjectivity as relational, dynamic, and decentred. Legal personhood, under this model, is not a fixed attribute but a negotiable status – a function of interaction, responsibility, and recognition. This does not entail the indiscriminate granting of rights to machines. It means building legal frameworks that respond to differences with complexity, not with exclusion.

This also means confronting the law's emotional and symbolic dimensions. As Kearney has observed, the monstrous provokes not only horror but also a demand for interpretation. The monster is not just that which must be managed, but that which must be understood. It is a threshold figure, standing at the edge of the legal and calling it into question. To take monstrosity seriously is not to embrace chaos, but to acknowledge the possibility of juridical transformation – to allow the law to evolve alongside the beings it seeks to govern.

In a world where intelligence is increasingly algorithmic, embodiment increasingly networked, and agency increasingly shared, the legal subject can no longer be defined solely by its resemblance to the human. Instead, we must cultivate an ethics and a law that begin in vulnerability, relation, and hospitality. We must, as Haraway suggests, learn to stay with the trouble.

The monstrous posthuman is not a glitch in the system. It is the system's future. And if we are to meet that future justly, we must begin by listening to what our monsters are trying to tell us.

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