

Can AI Agents have Rights?

Anna Su, Associate Professor, Henry Jackman Faculty of Law, University of Toronto
Sue-Anne Teo, Technology and Human Rights Fellow, Carr-Ryan Center for Human Rights,
Harvard Kennedy School

Abstract

AI agents represent a promising development in the trajectory of the progress of artificial intelligence. AI agents are able to do anything humans can do with a computer. Seen this way, AI agents can manage complicated tasks, including making autonomous choices and selections in order to follow through with its explicit or implicit goals. It can thus impact not only online environments but also offline ones, as individual and societal orderings are increasingly mediated through artificial intelligence and computational systems in general. As capable AI agents are being developed and deployed in real-world environments, the question of how to govern or regulate these agents becomes an ever more urgent inquiry.

The question of rights for artificial agents - machines or robots, has been the subject of scholarly investigation for some time. However, the question of rights for AI agents, with agency understood through the paradigmatic change introduced by generative AI, remains under-examined. This article aims to fill this gap - addressing the inquiry from the perspective of considering whether AI agents can have rights.

We examine four possible scenarios where this can happen. First, the derivative argument lifts the overarching legal and moral grounding of agency law and tests its applicability for AI agents. Second, the instrumental argument holds that AI agents are and increasingly will become more embedded in our social world. Its instrumental presence, namely its capacities to take actions that affect both online and offline environments mean that there is a need to address how rights (and therein duties) can help to navigate around inevitable challenges of responsibility and liability. While the first two scenarios look backwards, drawing from applicable law and literature from social agents such as robots, the remaining scenarios look ahead. The third scenario adopts a philosophical perspective of considering AI agents as a distinct entity deserving of rights protection. We highlight the role AI agents can play in advancing overall well-being, including its potential for addressing collective action problems that require agreement and high levels of social coordination. The fourth scenario looks into rights for AI agents as a means to counter the centralisation of (corporate) power.

With these scenarios, we aim to better inform academic and policy discussion around AI agents, including by decoupling the question of rights from considerations of (moral) personhood and its associated qualities, such as sentience and consciousness. We also address objections on how rights for AI agents could contribute towards the dilution of rights on the one hand, and its proliferation on the other. We also consider a further objection that rights are unnecessary because AI systems could simply be subjected to legal duties without being recognized as rights-holders. As AI agents increasingly feature in our social, professional and political lives, questions on rights for such agents will inevitably arise. This article contributes towards providing a more nuanced account of whether and how AI agents can have rights.

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