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Regulating the Tyrell Corporation

Company Law and the Emergence of Novel Beings



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The **preliminary evidence** from this project was accepted by the House of Lords AI Committee and **cited in the Lords Report (2018) *"AI in the UK: ready, willing and able?"*** (HL 2017-2019 (100)).



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This briefing discusses Lawrence and Morley's Wellcome Trust funded project 'Regulating the Tyrell Corporation', which explored the question of whether company law can, or should, be the primary means of regulating novel beings, and by extension their potential wide-ranging societal impacts, through future work.



1. Introduction

A forthcoming challenge for policy and regulation is the potential emergence of new types of being, both sapient and not, through advances in both synthetic genomic technologies and the development of artificial intelligences (AI). These technologies will likely be the product of public companies and in particular multinational corporations.

The main source of regulation for corporations derives from company law. As such, there is a need to determine whether the beings they produce should be accorded legal personality in order to understand better, the level of involvement of corporations in the development and application of these technologies.

The 'Regulating the Tyrell Corporation' project laid the foundation for a new intersectional field of study centred around the various legal and societal impacts that new intelligent lifeforms, as well as other morally significant technologies, will have.

This new field will help facilitate partnerships between the life and computer sciences with the law and social sciences in a new way, which focuses on redefining, and providing a holistic alternative to the piecemeal approach that is currently used in the regulation of emerging technologies.

2. Regulatory Considerations for Novel Beings

For morally significant technologies to be developed and operated both safely and ethically, it is important to identify who plays what role in its regulation. In doing so, the project considered fundamental issues behind 'novel beings' and what they meant to people in different fields of study.

The conceptual and practical objectives underpinning the project were translated into three key areas, namely:

- **Defining status** - Analysis of legal status for novel beings for the purposes of regulation.

- **Development** - Whether the drivers of public companies (i.e. shareholder primacy) are appropriate innovators of morally significant technological development.
- **Operation and Disposal** - Who or what entity is responsible for the lifespan of the potential being, its deployment, and ultimate fate.

The formulation of a far more rounded basis for a definitional understanding of legal status, legal responsibilities and regulatory mechanisms was moulded by the exchange of knowledge.



When we consider the potential stakes; synthetic post-human embryos, or the birth of Artificial General Intelligence that could think and reason like a human, with wants and needs and perhaps moral rights of its own; there is probably good reason to want to 'get in front' of these challenges- but it does not necessarily follow that we should do so unilaterally.

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3. Regulating the Corporation and Intelligence

At present, no regulation exists which addresses the responsibility of companies in the development, operation, and disposal of these technologies. To consider this issue, the primary activities of the project included a roundtable, two symposia, and a two-day conference.

The roundtable event brought together senior UK expertise in the areas of bioethics, company law, computer science, and biotechnology; to establish the key concerns for the project and explore the existing landscape of research.

The symposia focused on ideas outlining and pushing the traditional disciplinary boundaries of, respectively, moral status questions and company law questions. It explored the following:

- philosophical personhood research, modern ape personhood legal cases,

moral responsibility, and sociological perspectives of the collective consciousness.

- company law perspectives with the emerging field of artificial intelligence law, regulatory research, and patents and intellectual property law in the biosciences.

The conference incorporated relevant AI themes and promoted significant interdisciplinary dialogues on issues such as cognitive enhancement, neurological perspectives on the importance of the brain to law, responsibility and negligence in designing life, the perspectives of end-of-life research on non-human beings, trust in healthcare, and rights discourses.

4. Discussions on Consciousness

In particular, the project considered defining consciousness for the purpose of regulation by taking into account varying degrees of consciousness in both sentience and sapience and the key point of law that consciousness does not equal competence (*Gillick v West Norfolk*).

Through these considerations, the research established useful grounds for what may be referred to as a 'spectrum' of consciousness; reflecting a hierarchy of resultant moral status; and consequent responsibility and obligation; legal and jurisprudential issues related to novel beings and the use of company law in their regulation.



Key Reflections

- ◆ The need for more significant research investigating the regulation of advanced morally significant technology and the importance of considering company law in any new regulatory mechanisms.
- ◆ The need for the government to evaluate the adequacy of existing legislation in deciding who takes legal responsibility for novel beings and consider issues for criminal liability.
- ◆ The urgent need for the government to produce policies and regulations that address the emergence of novel beings and the involvement of corporations in their creation and operation.

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Following training in neuroscience and biotechnological ethics, David's PhD research largely focused on human enhancement technologies and the ways in which they are likely to affect both society and what it means to be human. In pursuing this research he became interested in AI and the prospect of the creation of novel types of being and consciousness, and the societal implications they might have. He is presently a Research Fellow in the Centre for Biomedicine, Health, and Society, University of Edinburgh.



Sarah is a Lecturer at Newcastle Law School. Her PhD studies focused on the divergent practices in takeover litigation in the UK and US. This led to an interest in the proper regulation of takeover practices more generally and the ways in which the law can better protect stakeholders. Sarah's wider study is of corporate governance and the means by which we improve the accountability of corporations generally.

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