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Legal protection for the robot in conflict of laws

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Abstract:

The study aims to reconsider amending the legal framework in terms of the existence of a conflict of laws through the distribution of risks. Who is responsible for the guarantee in the event of a change in national borders? Therefore, it depends on determining the legal frameworks for the conflict situation through the difference between recognizing the legal personality of a robot and not recognizing it by giving its legal entity in addition to giving individual rights through recognition of that entity.

Key words : Industrial Revolution, Robot, Personal guarantee, Legal nature, The legal impact of Robot , Legal protection

Introduction

First: Subject Of The Research

The beginning of the next industrial revolution began with the emergence of laws called the so-called information law. The establishment of a legal system that is compatible with its specificity, and that scientific development has invaded in the contemporary time the most diverse fields in people's real lives, has become the most important sources of innovation in the twenty-first century. The important question is whether there are rights for robots, given the hybridization between humans and machines, which consequently leads to the concealment of the human nature.

Second: Importance Of The Topic

The robot has a communication entity that can take the initiative to speak by using the information it obtained through observation or through notes (notebooks).

It can be said that a robot has the ability to communicate with humans, discuss, or adapt to a new situation. Therefore, it is permissible to ask: How do you imagine a robot that has high capabilities that have become too small to comprehend them, while recognizing that it has legal personality?

Third: Research Problem

We can ask the following question: Is it sufficient to merely adapt it by virtue of the robot's actual work by adapting it as a subject of law as a legal thing? Or should we go further than that? The question in particular regarding the recognition of the status of a robot system and thus raising questions about the legal nature of this technology. In addition, can a robot revolutionize the law? This question is considered very relevant indeed in the presence of technology that aims to create... New social and economic actors with cognitive capabilities.

Fourth: Research Plan

We can say that the legal protection for the presence of a robot in conflict of laws has not gained consensus in legal jurisprudence. Many see it as dangerous, while the other part sees an opportunity to adapt it to provide a legal classification in order to continue. The first section will address the nature of the robot and the second will discuss the impact of that protection in conflict of laws.

The First Topic

Robot Concept

We are now considered to be facing a real technological revolution, as it is considered the promise of a new civilization. Understanding this term and its reality, however, is very different and can be distinguished by its nature and level of independence. Now the field of its application and its relationship with humans differs as a result of the presence of the development of artificial intelligence with the extent of the effectiveness of the law in confronting it. However, the process of adapting to the technology interface^(١), and therefore we will study the robot in terms of definition and in terms of explaining nature in the following two requirements, the first for definition and the second for nature.

The first requirement

Definition of robot

Trying to define and determine the concept of the robot is considered a very precise and sensitive process, as this concept can have many and varied images depending on the eras. The question that arises about defining the robot raises many problems, in addition to being linked to a noticeable development over a long period of time, leading to what we have become. Of the industrial revolution thanks to artificial intelligence technologies^(٢).

By defining a robot, it combines mechanics, electronics, and computers, and aims to perform tasks that are generally dangerous or impossible for humans and in a better way than humans. In addition, a specific definition has been developed that applies to all robots, regardless of their number and diversity. Many dictionaries

have been issued to define the robot, where it is defined as “a machine that resembles a living being in its ability to move independently by walking or rolling on wheels.” In addition, it performs complex tasks such as grasping objects. It is moved by a machine guided by automatic controls^(٧).

Others defined it as “a machine that can perform a complex series of tasks automatically,” while others predicted that it was “a machine made to look like a human and can do some of the things that a human can do^(٨).”

As for the American Institute, the robot is defined as “a manual handler capable of being programmed and multi-functional and designed to move materials, parts, tools or special parts in various programmed movements and aims to perform various tasks^(٩).”

The International Federation of Robotics defines a robot as “a programmable machine that operates on at least two axes with a degree of independence and which moves according to its own data to perform planned and targeted tasks.”

It is worth noting that robots can be classified into industrial robots or service robots based on the intended use of the robot.

In the same context, Iraqi law is defined in the Iraqi Electronic Signature and Transactions Law in Article (١/٢٨), which calls the electronic intermediary and not the robot “a computer program or any other electronic means used to implement a procedure or respond to a procedure with the intention of creating, sending, or delivering information.” ”

From the above, it became clear to us that the definition of the robot is interesting from the point of view of the International Federation because it takes into account both functions and use cases and is interested in clarifying the capabilities of the robot and the form that it can take, as well as highlighting its physical or virtual characteristics.

In addition to all of the above, there are standard definitions, such as the definition provided by the International Organization for Standardization (ISO), according to which a robot is an operating machine that can be programmed in two or more axes with a degree of independence that moves within its environment to perform the intended tasks.

Based on all of the above and the many efforts made to define the robot, the majority of attempts did not succeed in describing the robot in a way that provides a comprehensive definition that covers all robotic applications. We believe that this failure in reaching a unified definition is due to the novelty of these technologies and their continuous development in a way that is difficult to notice,

in addition to the multiplicity of differences. Which cannot be overlooked among robotic technologies and applications, and therefore there must be flexibility in giving the definition to include various applications to be more comprehensive, accurate and clear.

The second requirement

The legal nature of a robot

Artificial intelligence in the human body is considered a hypothesis that gives a human character to robots and goes beyond the traditional confrontation and comparison between the biological and the mechanical^(١).

A part of jurisprudence, led by French jurisprudence, believes that there are many reasons that justify the necessity of establishing special legal provisions and considering them a law for robots, and the biggest example of this is the development of artificial intelligence in addition to the multiple goals for which it was considered part of the modern ways in which humans live in the world, so it was considered Robots are an extension of humanity^(٢).

If we look at the law, we find that it does not matter whether the robot is a robot, for example, or a vacuum cleaner, it is subject to the same provisions (property), and if we want to move from reality to the law, it is not property, but only useful things, that are considered property.

Property is considered to be things that provide services and benefits that can be owned, and the development of artificial intelligence entities required the existence of its own legal system^(٣). On the one hand, it is difficult to adapt artificial intelligence entities as abstract objects, but they can now be considered intelligent and multi-skilled, and the ability that they have through interaction with... What surrounds it makes it a unique being that cannot be described as an abstract thing. On the other hand, it cannot be considered a human being because it has not exceeded the limits of man, but it has exceeded the limits of machines^(٤).

Part of the jurisprudence holds that artificial intelligence has led to the transfer of independent machines, especially smart robots, which is considered a gray area between people and things. This in turn leads to changing the definition of the natural person and is not limited to humans^(٥).

On the other hand, you cannot attribute legal personality to products with human appearances. The legal person is thus the owner of the rights. This constitutes a kind of legal promotion or downgrading of the non-human entity, which could

inspire the creation of a special status for intelligent robots that make decisions freely.

There is no doubt that the recognition of the ordinary legal personality as one of the most important and clear symbols of the law's ability to adapt to the challenges it faces. It is considered evidence of the possibility that the law provides in legally advancing a new actor in the human environment according to its needs, which paves the way for the creation of the robotic personality, which will allow in the future to accept that. Entities for artificial intelligence as one of the legal persons, and at the same time raises the question about granting legal personality to those entities, as they emerge from the intangible and are considered tangible, and thus are granted that legal personality.

The second topic

Legal protection for the automated robot and its impact on the application

Legal protection is determined in the mechanism that contributes to determining that responsibility, and that is in a relative manner. Therefore, data on that protection is required to determine the law applicable to it and the extent of the impact resulting from that protection in the two requests:

The first requirement

The law applicable to the robot contract

Robot contracts are considered distributed contracts. It is difficult to determine the law that must be applied to them in the event of disputes, especially since these disputes are considered cross-border disputes, meaning they are considered international, and then the issue of conflict of laws is raised by highlighting the law of will in the event that the parties wanted to choose the law for the dispute. In the event of no choice, the judge's law applies^(١١).

This responsibility is determined in several aspects, including the legal aspects through actions that affect it permanently or temporarily, and by achieving security and safety, especially related to the environment and the extent of its impact on the labor market, in addition to protecting and maintaining privacy with regard to the data it carries. These challenges require dealing with them to ensure effective regulation by the user and the benefits they offer^(١٢).

Defining cases of liability contributes to enhancing innovation with regard to artificial intelligence in general and robots in particular. It is necessary to determine the status of protection and the law required for it, even if it crosses borders. The possibility of applying private law is considered a cross-border issue. This responsibility is determined by determining the damage first and then

compensating for it. The realistic effect of the standards of responsibility is within the jurisdiction of the law to determine the rules for conflict of laws, and the latter provides the application of the safest and most correct law in the event of a conflict that requires the application of local law and in the absence of a provision for the application of foreign law. This is done by referring to the text of Article (٣٠) of the Civil Code, which states: "In cases of conflict of laws for which there is no provision in the previous articles, the most common principles of private international law shall be followed."

The matter is very simple if there is a local law governing the relationship.

However, in the absence of a local law, the standards are subject to foreign responsibility that are more stringent than those applied at the local level.

However, solutions may be found by allowing the foreign robot to benefit from

The system in the event that foreign law is applied or in the case of ensuring its application^(١٣), finding solutions is determined by the damages associated with the robot. For example, we find that the European Union adopted in its report for the year ٢٠٢٠ specifying the civil liability system for the artificial intelligence process, which the draft specifies responsibility for the legal framework.

But the basic question is, if a person is harmed as a result of that robot, who is responsible for the error, or rather, when is the error attributed to the human, and which state is responsible for the error?

The question is considered a kind of difficulty, as it is not easy to determine the means of proof, and the only solution to this, which was confirmed by the European Parliament in its recommendations, specifies the proposal of many means, including indirect liability in a tangible way for the victims who suffer, and Article (٥) of the Council affirmed this to determine The amount of compensation, in addition to that, the employer is obligated to prove that he was accustomed to the care of a normal man in the behavior in which he worked^(١٤).

As for the second part of the question, which relates to the law that must be applied in the event of a liability related to the robot, which does not fall within its law, meaning it specifies which law must be applied, here we return to determining which contractual obligation or non-contractual obligation. By referring to the general rules, we find that it is necessary that third party obligations The contract is subject to the applicable law of the law of the place where the damage occurred, and this will achieve a fair balance between the interests of the person claiming, that is, he is the responsible person who bore the damage. That is, as a general rule, before submitting to the rule of place, the

binding matter is to act according to the will of both parties in choosing the applicable law that applies to their contract. Such as employment and consumer contracts.

These are the general rules and within the scope of the robot issue we do not find such an application where it cannot achieve balance.

In view of the matter, it is necessary to scrutinize two matters: the first is the applicable law and the second is the court competent for the dispute, i.e. the state in whose territory the damage occurred, i.e. the competent court is the one obligated to look into the dispute or the state on which that impact occurred, i.e. the state that was affected by that, i.e. the harmful consequences were imposed on it, because any Parts that materialize at times outside the scope of the states that produced or produced the effects.

This matter relates to whether the legal rules are interpreted, but if it is a matter they are not permitted to do such a thing, that is, it does not give them the right to choose which law they wish to adopt^(١٥).

After all of the above, it is possible to explain the status of the legal entity of the two nationals who enjoy the benefits of the state, and these rules are developed, whether natural or legal persons, and in addition to considering the cases of those before international courts, the state that produced that robot is obligated to impose protection on it because it is impossible for it to do anything. Work without human help.

The second requirement

Legal effect of a robot

Compensation is considered a tool to correct the imbalance that occurs as a result of the occurrence of damage. This rule is general, so the responsible person is obligated to compensate^(١٦). The original compensation is made in kind, and in the event of its absence, it is due to material compensation according to Article (١٦٩/٢) in accordance with the general rules of the Civil Code.

However, the robot guard may be exempted from responsibility if it is proven that he was taken care of with the care of a normal person. Accordingly, the guard's responsibility is an assumed responsibility on the basis of the supposed error that cannot be proven to the contrary, on the basis that his obligation to guard it is an obligation to achieve a result without exercising care, and thus the defendant may not pay. That he fully performed his duties of care is not enough to ward off responsibility, as he only has the right to prove the external cause, i.e. prove the absence of a causal relationship.

In this regard, it is possible to refer to the robot guard in accordance with the rules of responsibility for things, and the computer program is one of the things that requires careful guarding, especially when used in certain areas and circumstances. However, this responsibility can be denied by proving the absence of negligence or negligence, meaning that he is obligated to deny the harmful act, i.e. Causation.

Thus, basing responsibility for the damage caused by robots on the theory of responsibility for things gives the responsible person the right to defend himself from responsibility by proving the external cause, which makes the responsible guard have a great opportunity to defend responsibility, which leads to the failure of this theory in light of the rapid development in the field of work. Robots.

The modern theory mentioned by the European legislator under the principles of the special law issued on February ١٦, ٢٠١٧, by adopting the human representative system, that is, assuming the existence of a legal representation between the robot and the human responsible for it, assuming that the human bears responsibility for the actions of the robot, as the latest law defined him as the one who bears responsibility for actions of the robot and compensation for those harmed as a result of operating errors by force of law^(١٧).

Conclusion

The issue of legal protection for a robot in conflict of laws carries many results and recommendations

First/results

- ١- There is no unified definition of a robot due to its great diversity in addition to the versatility of its uses in various fields
- ٢- Jurisprudence oscillates in recognizing legal personality, similar to legal or moral legal personality
- ٣- The international legal personality of non-state actors cannot be recognized
- ٤- The issue of international legal personality can only be considered with regard to robots, as the matter leads to the development of international custom
- ٥- He may have protections through participation in various organizations

Second/ Recommendations

- ١- The need to establish special rules that include a comprehensive legal organization governing the uses of robot technology, taking into account modern technologies to avoid negative effects.

٢- Recognizing the legal nature of the smart robots used leads us to move towards assigning virtual legal personality to these entities for the normal legal personal purposes that legal systems recognize for legal persons.

٣- Assigning a special insurance fund to compensate the injured person in cases that do not exceed adequate insurance coverage, in accordance with the recommendation of the European legislator.

٤- Establishing a mandatory insurance system that covers civil liability arising from the use of smart robots, which includes providing legal protection for those harmed by these smart robots and fair compensation for the damages resulting from it.

References

١. Sean Byrne, Implications of the Modern Commercial Entities Law for Regulating Independent Systems, ٢٠١٩.
٢. D. Amr Taha Badawi Mohamed, The legal system for smart robots equipped with artificial intelligence technology, the United Arab Emirates, as a model, a comparative analytical study of the rules of civil law for robots issued by the European Union in ٢٠١٧, Robot Code of Ethics Project, Journal of Legal and Economic Studies, Cairo University ٢٠٢٠.
٣. Nour Muhammad Al-Salman, Automated Legal System, Concept and Civil Liability, PhD thesis, University of Sharjah, United Arab Emirates, ٢٠٢٣, p. ١٠.
٤. D. Musab Thaer Abdel Sattar, Bashar Qais Muhammad, Tort Liability Related to Artificial Intelligence, Journal of Legal and Political Sciences, College of Law and Political Science, University of Diyala, Volume Ten, Issue Two, ٢٠٢١
٥. Article (١٥١١) of the French Civil Procedure Code relating to the applicable law.
٦. Khaled Jamal Ahmed Hassan, a critical analytical study of some legal texts regulating the contract in Bahraini civil law, without publishing house, ٢٠٢١
٧. Muhammad Rabie Fathi Al-Bab, Dr. Maha Ramadan Batikh, Introduction to the Study of Law, The Theory of Right, Dar Al-Nahda Al-Arabiya, Cairo, ٢٠١٦
٨. Omar Taha Badawi Muhammad, The legal system for smart robots equipped with artificial intelligence technologies, the United Arab Emirates, the United Arab Emirates as a model, Journal of Legal and Economic Studies, ٢٠٢٠
٩. Muhammad Hassan Qasim, Civil Law, Obligations, Sources, Contract, Volume One, Definition of Contract and Its Divisions, Contract Formation: Consensus/Subject/Cause and Invalidation, a comparative jurisprudential study in

light of recent legislative and judicial directives and the new French Contract Law ٢٠١٦, Al-Halabi Publications. Jurisprudence, Beirut, ٢nd edition, ٢٠١٨.

١٠. Muhammad Rabie Fath al-Bab, Artificial Intelligence Contracts - Their Origins - Their Characteristics - Settlement of Disputes through Blockchain Arbitration, Faculty of Law, Monovofia University, Egypt, ٢٠٢٣.

١١. Salman Mohsen, Explanation of the Civil Law on Obligations by Tort and Civil Liability, Volume ٢, Sader Library Publications, ٥th edition, ١٩٨٨.

١٢. Nabila Al Mahdi, Civil Liability for Robot Damage, Analytical Study, Master's Thesis, United Arab Emirates University, ٢٠٢٠.

١٣. <http://www.oxfordlearnersdictionaries.com>

١٤. tom logsdon, the robot revolution , now York simon & schuster, ١٩٨٤, p١٩.

١٥. x bioy , uers, unststut legal, des androides journal international de bioetnique , ٢٠١٣ ,vol ٢٤ p.p ٨٥-٩٨.

١٦. rodol phe gelin, oliver gullhem le robot estit lavenir del , homme le documentation francaise , ٢٠١٦ , p١٣٠.

(١) Sean Byrne, Implications of Modern Commercial Entities Law for Regulating Independent Systems, ٢٠١٩, p. ٩٣.

(٢) Dr. Amr Taha Badawi Mohamed, The legal system for smart robots equipped with artificial intelligence technology, the United Arab Emirates, as a model, a comparative analytical study of the rules of civil law for robots issued by the European Union in ٢٠١٧, Robot Code of Ethics Project, Journal of Legal and Economic Studies, Cairo University ٢٠٢٠. p. ٨.

(٣) Nour Muhammad Al-Salman, Automated Legal System, Concept and Civil Liability, PhD thesis, University of Sharjah, United Arab Emirates, ٢٠٢٣, p. ١٠.

(٤) [http://www.oxfordlearnersdictionaries.com/definition/american english /robot?q=robot.](http://www.oxfordlearnersdictionaries.com/definition/american%20english/robot?q=robot)

(٥) Tom Logsdon, the robot revolution, now York Simon & schuster, ١٩٨٤, p١٩.

(٦) Dr. Musab Thaer Abdel Sattar, Bashar Qais Muhammad, Tort Liability Related to Artificial Intelligence, Journal of Legal and Political Sciences, College of Law and Political Science, University of Diyala, Volume Ten, Issue Two, ٢٠٢١, p. ٣٨٩.

(^٧) x bioy , uers, unststut legal, des androides journal international de bioetnique , ٢٠١٣ ,vol ٢٤ p.p ٨٥-٩٨.

(^٨) Dr. Omar Taha Badawi Muhammad, The legal system for smart robots equipped with artificial intelligence technologies, the United Arab Emirates, United Arab Emirates, Journal of Legal and Economic Studies, ٢٠٢٠, p. ١٣٠.

(^٩))rodol phe gelin, oliver gullhem le robot estit lavenir del , homme le documentation francaise , ٢٠١٦ , p١٣٠.

(^{١٠}) Dr. Amr Taha, The Legal System for Intelligent Robots, previous source, p. ١٣٣.

(^{١١}) Article (١٥١١) of the French Civil Procedure Code relating to the applicable law.

(^{١٢}) Khaled Jamal Ahmed Hassan, a critical analytical study of some legal texts regulating the contract in Bahraini civil law, without publishing house, ٢٠٢١, p. ٨٥.

(^{١٣}) Muhammad Rabie Fathi al-Bab and Dr. Maha Ramadan Batikh, Introduction to the Study of Law, The Theory of Right, Dar Al-Nahda Al-Arabiya, Cairo, ٢٠١٦, p. ٣٥.

(^{١٤}) Muhammad Hassan Qasim, Civil Law, Obligations, Sources, Contract, Volume One, Definition of Contract and Its Divisions, Contract Formation: Consensus/Location/Cause and Invalidation, A Comparative Jurisprudential Jurisprudential Study in Light of Modern Legislative and Judicial Directives and the New French Contract Law ٢٠١٦, Al-Halabi Legal Publications , Beirut, ٢nd edition, ٢٠١٨, p. ١٥٤.

(^{١٥}) Muhammad Rabie Fath al-Bab, Artificial Intelligence Contracts – Their Origins – Their Characteristics – Settlement of Disputes through Blockchain Arbitration, Faculty of Law, Monovofia University, Egypt, ٢٠٢٣, p. ٨٧.

(^{١٦}) Salman Mohsen, Explanation of the Civil Law on Obligations by Tort and Civil Liability, Volume ٢, Sader Library Publications, ٥th edition, ١٩٨٨, p. ٥٢٣.

(^{١٧}) Nabila Al Mahdi, Civil Liability for Robot Damage, Analytical Study, Master's Thesis, United Arab Emirates University, ٢٠٢٠, p. ٣٦.

