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NEGOTIATING PERSONHOOD BEYOND THE HUMAN: A RELATIONAL LEGAL THOUGHT EXPERIMENT

Abstract. This article explores the ontological foundations of legal personhood in light of contemporary philosophical challenges to the human–nonhuman divide. Drawing on Bruno Latour’s theory of quasi-objects and Guido Sprenger’s animist notion of fluid personhood, it examines how shifting metaphysical assumptions may reshape legal personhood. The article argues that legal theory should move beyond fixed, anthropocentric categories and engage in a deeper negotiation of who – or what – counts in law.

Keywords: legal personhood, flat ontologies, fluid personhood, Bruno Latour, posthumanism, anthropocentrism

NEGOCJOWANIE PODMIOTOWOŚCI PRAWNEJ, POZA TYM CO LUDZKIE: RELACYJNY EKSPERYMENT MYŚLOWY W TEORII PRAWA

Streszczenie. Artykuł bada ontologiczne podstawy podmiotowości prawnej w świetle współczesnych filozoficznych wyzwań wobec podziału na to, co ludzkie i nieludzkie. Odwołując się do teorii quasi-obiektów Bruna Latoura oraz animistycznej koncepcji płynnej podmiotowości Guido Sprengera artykuł analizuje, w jaki sposób zmieniające się założenia metafizyczne mogą przekształcać rozumienie osoby prawnej i jej podmiotowości. Artykuł dowodzi, że teoria prawa powinna wyjść poza sztywne, antropocentryczne kategorie i podjąć głębsze negocjacje dotyczące tego, kto – lub co – jest uwzględniane w prawie jako podmiot.

Słowa kluczowe: podmiotowość prawna, osobowość prawna, ontologie płaskie, płynna podmiotowość, Bruno Latour, posthumanizm, antropocentryzm

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1. INTRODUCTION

One of the central ontological axioms of Western legal thought has, for centuries, been the separation of persons and things. Since these two categories – alongside normative relations such as rights and obligations – constitute the most fundamental building blocks of law, it is hardly surprising that both legal theorists and practitioners have devoted considerable attention to defining and redefining them, interpreting their respective roles¹ (and, naturally, any theoretical articulation of one concept has shaped and influenced the definitions of the system's other two foundational elements: person, thing, and relations).

This article does not aim to provide a comprehensive overview of the relevant theories. Its starting point is the premise that the legal ontological dichotomy – the separation between person and thing – while specific to law and often explicitly fictional (Fischer-Lescano 2020) – reflects the broader dichotomous structures of philosophical and social (extra-legal) thought over the past centuries: the divide between subject and object, society and nature, individual and community. It takes as a basic proposition that the core of this distinction, its very rationale, lies in the (non-) allocation of rights and obligations to certain entities – legal persons are the sole possible bearers of rights and/or duties. The article is grounded in the conviction that the normative question of “who can be a legal person” cannot be answered without extra-legal considerations. Its central inquiry is thus the following: how has the relationship between human and nonhuman (between humanity and its “environment”) changed over the past half-century, how does this affect law (primarily the concept of legal personhood), and what new ontological and epistemological possibilities emerge for the legal system when it comes to the question of “who should be taken into account”² – i.e., who should be granted rights and/or obligations?

This article argues that the current dichotomous conception of legal personhood has become increasingly untenable. Developments in philosophy, science, and technology have raised fundamental questions about what it means to be human and how humans are entangled with the world around them. These transformations cannot be ignored by law; indeed, both legal theory and legal practice are already responding – explicitly or implicitly – to the shifting ontological terrain.

The following discussion adopts a partly normative stance: it advances the thesis that we must move beyond what Kurki has described as the “orthodox view” of legal personhood (Kurki 2019) and begin to articulate new legal ontologies.

¹ Kurki e.g. identifies five distinct schools of thought concerning the theory of legal personhood (Kurki 2019, 55–56).

² Pietrzykowski argues that it is precisely this right – the right to be taken into account – that distinguishes legal subjects from non-subjects (although in his theory, these subjects are not necessarily legal persons; see Pietrzykowski 2017).

The second part of the article explores one such possibility. Rather than merely “extending” legal personhood to new entities within the confines of existing dichotomous logic and its philosophical foundations, it attempts to reconceptualize personhood altogether – shifting from a fixed-entity model to one that understands personhood as a form of relational positioning. While the second part is primarily a philosophical thought experiment, drawing heavily on the ontological work of Bruno Latour (2004) and Guido Sprenger (2021), it is also deeply inspired by broader strands of relational theory. Its aim is not to propose a ready-made normative framework, but to explore one possible way in which law might accommodate an ontology in which the traditional boundaries between subject and object no longer hold.

In the approach adopted by this article, legal personhood is not merely a technical or analytical concept, but also a moral judgment and a mechanism of selection. Crossing the threshold of legal personhood is only possible for those who *matter* – and recent decades have increasingly demonstrated that our traditional answers to the questions “who (or what) exists?” and “who (or what) matters?” (namely, the human being or human communities) may have become obsolete.

2. LEGAL PERSONHOOD AND THE CLASSICAL ONTOLOGICAL FRAMEWORK

Over the centuries, certain foundational ontological tenets have become deeply embedded in the fabric of law, transformed into “normative truths” upon which the stability of the entire legal system continues to depend.

2.1. Person and thing

The default figure of legal personhood became the human being (Fischer-Lescano 2020), and the image of the paradigmatic legal person – endowed with rights and obligations – was defined by Western modernity: a rational, autonomous adult individual of sound mind, possessed of free will and the capacity to exercise control over their own life (Hunt 2017). This paradigm found its fullest expression in human rights doctrine. During the French Revolution, only white, propertied men fulfilled these criteria. However, the “inner logic of human rights” gradually came to include an ever-wider range of persons, ultimately extending to the entire human species (Hunt 2017). This expanding logical spiral also gradually transformed the very logic of human rights: the primacy of *free will* as an organizing principle was supplanted by the notion of *dignity*.³

The image of the legal person as a healthy, autonomous adult individual remains deeply embedded in the normative structure of law – well beyond the

³ This shift also reflects the growing influence of interest theory over will theory in the field of human rights.

domain of human rights, and legal relations continue to be shaped by this underlying assumption. The classical construction of the legal person as the subject of rights and duties is thus based on two key assumptions: first, that legal personhood is dichotomous – an entity either is or is not a legal person, with no intermediate possibilities; and second, that full legal personhood belongs to every human being (as the result of the ever expanding spiral of human dignity and human rights), and to certain human collectives (Kurki 2019, 6–10).

Within the framework of this dichotomous conception, a *thing* is defined negatively, as anything that is not a legal person.⁴ From its metaphysical (extra-legal) foundations, the object is not characterized by free will or contingency (as the subject), but by determinism and causal necessity (Harman 2006). Matter, object, nature, thing – these constitute the other side of the dichotomy. In the words of Anna Grear: “The subject (also, in a historically central sense, the fully human) is thus defined by its ontologically independent and ultimately self-referential rationalism, while ‘everything else’ (including the human body) becomes inert ‘matter’ to be viewed, examined, probed, and ultimately controlled and exploited: mere ‘dead’ *res extensa*” (Grear 2017, 133–134).

This category encompasses not only the inanimate environment but also living nature, without substantial differentiation or categorization.⁵ The essence of this bipolar ontology lies in the separation of the human from its environment. Persons, things, relations – this triad forms the core of the “orthodox view”⁶ of Western legal ontology.

2.2. Taking the nonhuman into account

It soon became apparent that the anthropocentric worldview is not a unified or closed system: “the human” does not constitute a sufficiently homogeneous category to sustain one pole of a dualist ontology. Even the expanding spiral of human rights destabilized the ontological foundation of the legal subject as the “bounded heterosexual male body” (Grear 2017, 133). The designated categories fell into contradiction: on the one hand, legal personhood was attributed to entities that did not meet the criteria of the “paradigmatic person” and were thus not capable of participating in all legal relations (in particular, those requiring the exercise of legally relevant free will – such as children or persons with mental disabilities); on the other hand, rights were denied to entities that, based on the very criteria legitimizing legal personhood, arguably ought to have possessed

⁴ Some theories consider only those entities to be objects that can be owned; see Kurki (2019, 12).

⁵ The further examination and classification of objects may fall within the scope of scientific inquiry, but not that of legal theory.

⁶ “The Orthodox View” is a term used by Kurki to refer to the classical dichotomous conception of legal personhood (Kurki 2019).

them.⁷ The hierarchical logic placing the human at the top – by virtue of mental capacity – began to falter.

The abstraction of legal personhood, therefore, entered into an irreconcilable conflict with its own internal logic and ontological foundations. In recent decades, entities have emerged in legal and philosophical discourse that the original anthropocentric model neither anticipated nor could accommodate within its framework of legal personhood: nature, ecosystems, rivers – but also machines, artificial intelligences, and biotechnological hybrids, the outcomes of technoscientific innovation.

Legal theory and practice have responded to these tensions and to broader socio-philosophical transformations with a range of conceptual experiments aimed at reconciling subject and object – or at least blurring the boundaries between them. Some scholars have proposed models of graduated personhood, rejecting the dichotomous structure. Kurki, for instance, distinguishes eight different incidents of legal personhood and claims that legal personhood is a cluster concept ranging from fully passive to fully active legal personhood (Kurki 2019, 91–124); Pietrzykowski proposes the category of the “non-personal subject of law” for vertebrate animals, who have at least one right: the right to be taken into account (Pietrzykowski 2017). Even Western legal systems increasingly differentiate between sentient animals (i.e. capable of experiencing pain) and other “objects,” granting the former a higher level of protection.⁸

Law is increasingly taking nonhuman animals into account, affording enhanced protection, but it is also placing greater emphasis on environmental preservation. In certain cases, *nature* is beginning to break out of its ontological isolation, and Western legal systems are making tentative efforts to perceive ecosystems as organic wholes – singular entities deserving of protection and *rights* – not merely as aggregates of individuals.⁹ For example, the Whanganui River in New Zealand has been recognised as a legal person: according to the Te Awa Tupua Act, the river is understood as an indivisible living whole rather than a mere collection of water, banks, and resources, and it has “all the rights, powers, duties, and liabilities of a legal person.” Similarly, the 2008 Ecuadorian Constitution enshrines the rights of Pachamama (Mother Earth), granting ecosystems the right

⁷ See e.g. Kurki’s analysis on the tension between what he calls the extensional and the intentional beliefs concerning legal personhood (Kurki 2019, 15).

⁸ See e.g. the art. 494 of the Czech Civil Code (zákon č. 89/2012 Sb., občanský zákoník): “A living animal has a special meaning and value already by virtue of being a sentient living creature. A living animal is not a thing, and the provisions on things shall apply to it only to the extent that they do not contradict its nature.”

⁹ See the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, 20 March 2017.

to exist, regenerate, and flourish, and allowing humans to appear in court not as owners of natural resources but as representatives asserting nature's own rights.¹⁰

What these experiments share is a willingness to consider nonhuman entities *for their own sake*. Yet their underlying logic remains within the orbit of the anthropocentric worldview. Kurki and Pietrzykowski, for example, conclude that as to nonhumans, legal personhood can be extended only to vertebrates. As Kurki puts it, "Sentient beings include at least born, non-anencephalic humans, human foetuses during the final trimester; and most vertebrates" (Kurki 2019, 64). For Kurki, this definition becomes the authoritative point of reference for examining the criteria of legal personhood. The definitions of these authors and their justifications remain fundamentally anthropocentric, merely extending the ideals of humanism – rationality, subjective sensation (such as the experience of pain), and individualism – to other entities.

In the case of ecosystems and the rights of nature, efforts to alter their ontological status draw inspiration from a range of sources. These include Western science-based ecological movements and their ideological frameworks, as well as the cosmologies of certain Indigenous cultures. However, the logic that underpins these approaches – and the legal structures built upon them – remains unchanged. Thus, although these frameworks seek to recognize nature *in its own right*, they often generate categories that are incompatible with Western legal understandings and, in the end, do little to challenge the fundamentally dualist architecture of our legal culture.¹¹ Attempts to reinterpret – or dissolve – the division between subject and object often remain trapped within the framework of the old paradigm. While they extend the right to be taken into account to nonhuman beings, the criteria by which this is done continue to draw on a human-centred, dualist worldview. Even environmental protection is frequently mediated through human rights and articulated in the language of human entitlement (e.g. Kersten 2017).

Yet this dualist abstraction is ill-suited to serve as the organizing principle of a world in which the voice of "nonhumans" is becoming increasingly important. As Latour warns, the concept of the object, of Nature was constructed precisely so that it could not be united with the human. The object is "that which resists subjectification" (Latour 2004, 103). These are the concepts of an era whose

¹⁰ Constitution of the Republic of Ecuador (Constitución de la República del Ecuador) 2008, arts 71–74.

¹¹ As Reeves and Peters caution in relation to the legal personhood of the Whanganui River: "As a legal person, however, the River does not become 'equal' to other legal persons; it is positioned on a spectrum of personality below 'whole' persons who, as Grear notes, are ultimately characterised as white male property owners (or beyond them, disembodied corporate persons). The result is not so much an overcoming of the hierarchy of the anthropos, but rather situating the River within it, allowing for the continued exploitation of the 'rest' of nature. [...] In short, environmental personhood responds to anthropocentrism with anthropocentrism" (Reeves, Peters 2022, 497).

foundational assumption was the radical separation and incommensurability of subject and object.

For this reason, it is not enough to simply add nature to society without first establishing new ontological foundations. The basic contradiction – the very rationale behind the existence of these categories – cannot be resolved by aggregation alone. In both philosophy and law, a different trajectory emerges: one that experiments with the possibility of a paradigm shift.

3. NEW ONTOLOGICAL FOUNDATIONS

The blurring and fraying of the boundaries of “the human” and “the subject” had, in fact, already begun with the expansion of human rights – through the gradual inclusion of women, slaves, children, Indigenous peoples, the disabled, and others (Braidotti 2019). In parallel, the rising visibility and valorization of the object – the growing consideration of nonhuman entities – has further amplified this development in recent decades.

In place of the classical concepts of human, subject, and rational autonomous individualism, attention is shifting toward the relations between humans and nonhumans, toward mutual attachments, embeddedness, context, perspectivism, interdependence (both human and nonhuman), and the Other – nature, the object, matter – as it resists full conceptual capture.¹²

This ontological paradigm shift is finding its way into legal theory as well, with a growing number of scholars rethinking the core concepts of law in light of these transformations. Alongside attempts to stretch or expand the classical humanist and anthropocentric worldview (as discussed above), legal thought is increasingly responding to the emergence of a new metaphysical turn.

This transformation is most clearly visible in the emergence and development of relational theories. Beginning with the ecocentric interventions of the 1960s and 1970s – exemplified by Christopher Stone’s famous challenge to the anthropocentric limits of legal standing (Stone 1972) – a range of alternative approaches has gradually taken shape, each foregrounding different aspects of law’s relationship to its subjects. Feminist legal theories (e.g. Nedelsky), Indigenous jurisprudences (e.g. Arstein-Kerslake et al. 2021), and various strands of new materialism (e.g. Davies 2017) all participate in this shift.¹³ What unites these otherwise heterogeneous

¹² For a concise overview of different posthuman approaches and philosophies, see e.g. Braidotti’s and Hlavajova’s *Posthuman Glossary* (Braidotti, Hlavajova 2018).

¹³ Michał Dudek, however, warns that legal theories drawing on flat ontologies often approach the new metaphysics – and the broader ontological and epistemological insights of philosophy and the social sciences – in an instrumental manner. These theories tend not to engage with such frameworks systematically or reflectively; rather, their methods are often eclectic, selectively appropriating elements from various philosophical traditions to suit their purposes. In *On Flat*

perspectives is a common move away from atomistic, autonomous individuals conceived as fixed categories, and toward the relations that bind entities together: relations between humans, between humans and nonhumans, and between what have traditionally been construed as subjects and objects. Some of these theories continue to understand legal personhood as an individual status, but one that can only be fully realized within webs of social and material relations – and that is not necessarily confined to human beings. Other approaches adopt a more radical position and treat relations themselves as the primary formative force of legal personhood. In this view, we become – or fail to become – legal persons through our relations. It is in this sense that Latour’s account of collectives and networks can be read as a relational ontology of personhood, and that Guido Sprenger’s reflections on animism and fluid personhood draw attention to practices in which personhood is constantly negotiated through shifting connections rather than anchored in stable human essences.

The next section of this article will explore legal personhood through the lens of these emerging metaphysical perspectives, focusing on the possibilities for reinterpreting the subject–object divide in philosophy. Particular emphasis will be placed on the concept of fluid, situational personhood, drawing primarily on Latour’s framework and on the animist configurations described by Guido Sprenger (Sprenger 2021).¹⁴

3.1. The concept of fluid personhood

Bruno Latour is an unavoidable reference when it comes to the critique of anthropocentrism, the reassessment of the role of objects, and the emergence of a new metaphysics. He laid out his ontological assumptions in *Politics of Nature*, and was among the first to attempt the construction of a new metaphysical framework – one that continues to resonate, in various forms, throughout object-oriented currents of thought. While Latour’s theory is open to critique on several fronts (Fischer-Lescano 2020), the paradigm shift he proposes in ontology – and its potential implications for law – are far-reaching.

Ontologies and Law, Dudek partially addresses this gap by systematically examining the theories of selected philosophers (Gabriel Tarde, Bruno Latour, Manuel DeLanda, Karen Barad, and Graham Harman) from a legal perspective, and by assessing whether these frameworks can meaningfully contribute to a reconceptualization of law (Dudek 2024).

¹⁴ Latour is relevant to legal theory in numerous respects, and his work has attracted significant attention within the field. It is not my aim here to present the full scope of his oeuvre. For broader discussions of Latour’s relevance to law, see, for example, Dudek’s chapter on Latour (Dudek 2021); for his theory of representation, see Brown’s analysis (Brown 2017).

In what follows, I focus only on Latour’s most fundamental claims concerning the reconceptualization of personhood – primarily as articulated in *Politics of Nature* (Latour 2004), and as interpreted by Harman (2006).

As Graham Harman has pointed out, Latour is neither a materialist, nor a relativist, nor a social constructivist; nor can he be neatly situated within either the analytic or continental traditions of philosophy (Harman 2006). Instead, he dismantles the strict dichotomies of subject and object, nature and (human) society – what he calls the “Old Constitution.” In this old regime, “the Upper House” is composed of Nature, and “the Lower House” of Society. Nature, as a concept, does not refer to a portion of reality, but rather functions as a political device – its entire conceptual function is to exclude, to separate, to render certain entities external (Latour 2004, 83).

The organizing principle of Nature is causality and immutability (and thus depoliticization), whereas that of Society is contingency and arbitrariness (and thus political relevance). For this reason, the unification of Nature and Society is impossible – the two worlds cannot be reconciled. As Latour puts it, “subjects and objects can never associate” (Latour 2004, 105).

Latour sets his “New Constitution” in direct opposition to the rigid, dichotomous worldview of the Old. At the heart of this New Constitution lies the collective – a formation composed of hybrid constellations of human and nonhuman entities, or what Latour, following Michel Serres, calls quasi-objects (Harman 2006, 150). These entities are neither pure nor final, nor are they clearly bounded. Rather, they are in constant transformation, depending on the nature of their interactions and attachments.

For Latour, *esse est actio* – to be is to act: “[s]ubjects are actually objects, and [...] all objects (both human and nonhuman) are actors or actants” (Harman 2006, 150). The criterion of existence (and of being taken into account) is not any internal essence, fixed property, or ontological category, but agency: “Latour rejects all claims of vacuous material objects lying around in isolation from their relations. A thing attains reality only through these relations” (Harman 2006, 150).

Actants, entities, things, propositions – these are synonymous terms in Latour’s vocabulary. These actants interact, entangle, form collectives, and seek admission into the common world, which may either accept or reject them. And the basis of this world is negotiation: “reality is relation, and relation is negotiation” (Harman 2006, 156). Objects, in this view, are not passive, neutral matter to be manipulated, but active participants – who, as Harman notes, resist human appropriation in a very real sense (Harman 2006, 155). The existence (and configuration) of the collective is thus a constant matter of negotiation.

From the standpoint of legal personhood, two core features of Latour’s thought are especially significant:

1. He abolishes the classical notions of subject and object, Nature and Society as defined by the Old Constitution, replacing them with quasi-objects – hybrids of humans and nonhumans with shifting, “frayed” (*chevelu*) boundaries; and

2. He attributes agency to nonhuman actants as well: they are not inert material or mere representations constructed through human perception, but autonomous entities in the ongoing formation, persistence, and dissolution of hybrids. These actants limit human action and compel negotiation in the continuous shaping of the collective.

If we define the entities to be considered along these lines, we move beyond a conception of the subject organized around the human. This allows us to define who – and why – matters within a new ontological framework. This Latourian gesture strongly resonates with a question posed by anthropologist Guido Sprenger in his essay *Can Animism Save the World?* (Sprenger 2021). Sprenger describes animist societies in which the notion of personhood is not tied to stable entities (as it is in Western philosophy), but is instead fluid: depending on the situation, an entity may be regarded either as a person or as a thing, and its status depends on its perceived complexity.

Sprenger ties the attribution of personhood to complexity. As he writes: “From the point of view of living humans, certain conditions are required for the recognition of personhood, namely an attentiveness that possibly identifies events as – often unpredictable – communication, and not just as – relatively predictable – effect.” Complexity implies communication, and the essence of communication is “the necessary relation between expectation, disappointment and opacity” (Sprenger 2021, 82).

An entity is thus treated as a person when it communicates, when it negotiates, when we recognize a form of internal complexity within it. What Latour (and, according to Sprenger, certain animist cultures) offers is the decoupling of communicative capacity from inherently human traits, rendering entities – using Sprenger’s term – fluid.

The question, therefore, is no longer *who* may be a (legal) person, but *when*, and *under what circumstances* someone or something becomes a person – when an entity must be taken into account. And this may vary across time, space, and relational context.

Such a reframing – abandoning the individualist model of fixed ontological status – could transform our legal conception of personhood and perhaps enable a fundamental rethinking of the rights of nature. If we begin to see nonhumans as communicative, complex entities entering into our common world through diverse configurations, this not only opens the possibility of conceiving their rights outside of anthropocentric terms – beyond the assumption that only those who resemble us (e.g., “vertebrates,” “sentient beings”) are worthy of rights.

These entities – rivers, ecosystems, intricate, living assemblages from which vertebrates or humans cannot be cleanly separated – may at the very least be granted the *right to be taken into account* (as Pietrzykowski suggests in relation to vertebrates). Moreover, this dynamic, fluid notion of personhood may help us better conceptualize the ongoing but as-of-yet insufficiently theorized legal

transformations surrounding the rights of nature. It allows the nonhuman world to speak no longer in the language of human rights, but to assert its interests in its own terms – through its entangled relations with humans.

4. CHALLENGES

Such a paradigmatic shift raises a host of pressing questions. Chief among them is the classical problem of representation: who speaks on behalf of nonhumans? Who translates what they “say” into human language? What are the appropriate mechanisms for bringing the common world into being? Latour offers a Hobbesian response to this question, assigning a role to scientists, politicians, moralists, and economists in the process of composing the common world (Brown 2017). In legal practice, experiments with granting rights to parts of nature have given rise to a variety of institutional arrangements. Some entities are represented by appointed guardians or trustees (as in the case of the Whanganui River’s guardians, Te Pou Tupua); in other jurisdictions, any person is authorized to seek protection on behalf of ecosystems (as under Ecuador’s constitutional rights of nature and the figure of Pachamama). From the perspective of fluid personhood, however, none of these solutions can be regarded as definitive. Fluid personhood presupposes continuous and open-ended negotiation: as relations shift, so too do the entities that emerge from them and the rights that attach to those entities. But how might the legal system institutionalize such a fluid ontology, and what would such a change mean for the principle of legal certainty? Pietrzykowski emphasizes that even the right to be taken into account must be evaluated through the proportionality test when in conflict with other interests. Could the principle of proportionality help us determine in which contexts, and under what circumstances, specific entities should be granted legal personhood?

Another concern is the range of risks and consequences that may accompany the abandonment of fixed ontological categories in favor of a more dynamic, fluid (and unpredictable) conception of the world. Could this redefinition of personhood potentially destabilize the legal status and rights of some human beings? If complexity, unpredictability, and communicative capacity are to serve as criteria for personhood, would this mark a radical departure from previous attempts to expand legal personhood based on interest theory? Might such a shift backfire – leading not to the personalization of nonhumans, but to the depersonalization of certain humans?¹⁵ After all, several centuries of human-rights thought rest on the assumption that human beings, by virtue of their humanity, are special: they possess inherent dignity, and certain statuses and protections attach

¹⁵ Sprenger raises very similar concerns in the concluding section of his analysis (Sprenger 2021, 81–85).

to them as a matter of right. A new paradigm or metaphysics that unsettles this assumption may push the discourse toward a landscape in which some humans find themselves stumbling along the margins of legal personhood, and in which the most vulnerable – those whose capacity to negotiate and to be heard among proliferating entities is weakest – risk once again being eclipsed by other interests.

Some theorists advocate a more modest, pragmatic approach: legal personhood should be understood as a legal instrument rather than as the direct reflection of metaphysical categories (e.g. Pasha et al. 2024), thereby allowing for the protection of nature without disrupting the established human-rights order. Yet this view, too, gives rise to tensions and inconsistencies that cannot be fully resolved within the old paradigm, and which point to a deeper conflict between posthumanist ontologies and the humanist foundations of modern human-rights discourse.

These questions remain largely unanswered. Yet if the goal is to transform law in such a way that it can include nonhuman entities in their own right – not solely on the basis of their relationship to, usefulness for, or exploitability by humans – then the old categories and the fundamentally humanist, anthropocentric ontologies will no longer suffice. Law is beginning to respond to these challenges, but I agree with Michał Dudek in asserting that what is needed is deep, systematic work: the integration of philosophy, other social sciences, and legal scholarship to reflect on and analyze the possible implications of these ontological changes for the legal system (Dudek 2024, 33–38).

5. CONCLUSION – TOWARDS A NEW JURIDICAL METAPHYSICS

This article has sought to offer one possible interpretation of the interaction between a shifting metaphysical-ontological landscape and the law – specifically, the concept of legal personhood – through the lens of Bruno Latour’s theory and the notion of fluid personhood as rooted in the animist perspectives presented by Guido Sprenger. Such a paradigm shift – or rather, a thought experiment – inevitably raises a host of unresolved questions. Yet, given the growing number of attempts in both legal theory and legal practice to expand the category of legal subject, the urgent question arises: on what philosophical and ontological foundations do these attempts rest, and in which direction might they evolve?

As Latour reminds us: “Far from ‘overcoming’ the dichotomies between human and nature, subject and object, systems of production and environment, in order to find quick remedies to the crisis, it was necessary instead to slow the movement down, take one’s time, suspend it – and then go beneath these dichotomies to dig, like the old mole” (Latour 2004, 5).

This article has been an effort to partake in such a slowing down, by focusing on one specific segment of the legal field and asking what it might mean for law if we take these ontological developments seriously.

Future legal thought must, therefore, grapple with the pluralization of personhood, the flattening of ontologies, and the expansion of the common world. Achieving this, however, requires sustained interdisciplinary cooperation and mutual understanding across philosophical, legal, and social scientific domains.

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