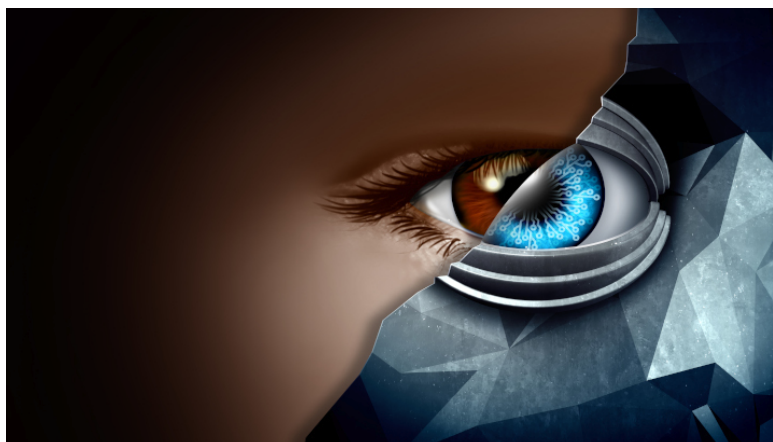


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Biomedical responsibility in transhumanism?



Transhumanism is a delicate subject that confronts ethics with the use of technological development to expand the natural capacities of human beings. What makes the implantation of a pacemaker different from that of a bionic eye? In this article Marc Abraham Puig, from the Department of Political Science and Public Law, presents a summary of his work in which he analyzes the use of medicine and biotechnology for two different purposes: need *versus* desire. Can legal responsibilities be demanded of those who break with human nature? Who should be made liable for the biomedical interventions in our bodies?

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Nowadays, in the 21st century, no one is surprised that human beings can connect technological devices to their own body. In our minds would come archetypal cases of this kind of integration when we think of a pacemaker or a prosthesis. A milestone in medicine and biotechnology. However, there are more spectacular current cases such as bionic eyes or neural chips. But in both types the concept is the same: an organism that combines an organic part with a cybernetic or technological one.

The former examples I quoted above do not make us think of what cyborgs are as if they were a creature rather proper to science fiction. Now, the latter, somehow, seems to open the window of

our imagination. An explanation for this phenomenon, this different perception of both types of examples, is very simple. While a pacemaker or prosthesis corrects vital functions that we humans had impaired, a bionic eye, on the other hand, extends them beyond what is proper to our nature.

Interestingly, the foundation of both cases is the same: liberty. However, in medical cases, in the first, the intervention on the human body tries to raise the diminished capacities in a person until a certain threshold by which we can say that they are corrected, that it is tried to equal to the capacities that we have the other citizens, that is, we tend to parallel our capabilities, to achieve a social goal. On the contrary, in the second type of case this social end does not exist, but what justifies the extension of the capacities is the freedom, but of another type. In this case, the individual's freedom to act without coercion, that is, his autonomy or the ability to give rules to himself without external elements that prevent him.

Although in both cases freedom appears, the social ends (health, justice) lead us to find justified the intervention of the human body in the first case and not always in the second one. At the very least, we would not always approve the intervention on the other cases without objections. And this is because the second case breaks with our nature. We human beings are not only a body with certain abilities, natural gifts, which are vital and characteristic and which, if we are deprived of them, we correct at the request of society. We are not only that, because we are also a certain body with its limits.

In saying this I do not think of a particular case, but of the human being as such. Having certain abilities, a limited number of natural gifts, human beings put the necessary means, we manage them if we prefer to see, to try to achieve our projects and do something with our lives. In short, knowing that we humans are limited in our natural gifts, we work with reason, we do intellectual exercises, we try to modify our environment to make our way in the adventure of living. However, the second cases of human enhancement break with our nature because they involve the scenario of being deprived of what we lack to exercise reason, and therefore break with the freedom of all.

What I have done in this work is to ask myself if there are legal elements to hold responsible those who break with human nature. Of course, not in any case, but in those in which the harm done to the human body is so obvious that we can say that "the thing speaks for itself." This idea is the collection in the aphorism *res ipsa loquitur*.

During the study I present I have focused on the judicial doctrine that defines liability in biomedical intervention cases. A doctrine that focuses on biomedical practice, on the intervention procedure of our body to delimit responsibility, to clarify who should be held accountable for the harm caused to the thing, that is, to the human body.

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References

Hernández, M. A. P. (2020). **Cíborgs: Res ipsa loquitur**. *Cuadernos electrónicos de filosofía del derecho* (CEFD), 43, <https://doi.org/10.7203/CEFD.43.16895>

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