

## 8.3. Evantropia and the Law: Legal Issues in Biotechnology in the “Altered Carbon” Trilogy

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### Abstract

Emerging technologies are producing results that are getting ahead of both ethical reflection and legal regulation, raising both hopes and fears. As part of a consideration of how to address these problems, this essay examines the relationship between utopia, the human, technology, and the law, as present in Richard K. Morgan’s “Altered Carbon” trilogy. The aim of this essay is to generate insights that can be useful in thinking over the nexus of law, utopia, and literature, and consider some paths for the design of future law. It begins with outlining the connections between law, culture, and utopia, and proceeds to discuss the concept of the future law and some problems associated with it nowadays. Then, Morgan’s trilogy is given a closer look, with special attention drawn to the legal problems described in it, such as the right to die, the sale of bodies and data, and identity theft. It concludes with a reflection on the place of law in the construction of a viable biotechnological future in the light of utopian studies.

**Key words:** utopia, law, biotechnology, culture, human rights

“Evantropia” is the attempt to construct utopia in the human body with the help of technology. The term was coined by Eusebio Hernández Pérez and Domingo F. Ramos Delgado in the twentieth century to speak about specific health policy, and redefined by Misseri (2016) (Bugajska, 2019a: 32–41). It is related to the human enhancement movement, leaving aside the environmental utopianism that Misseri sketched later (2021: 86–7). Richard K. Morgan’s *Altered Carbon* trilogy paints a postmortal, extropian world, which is perceived and, to a large extent, thought out as a text utilizing dystopian aesthetics, where extropia would mean the never-ending drive for improvement. Morgan’s speculative world realizes the ideals of

evantropia in its narrow sense, and puts into relief the vitality of legal issues that emerge in relation to some of the new biotechnologies. An evantropian vision is already producing a host of emerging technologies that are getting ahead of both ethical reflection and legal regulation, raising both hopes and fears. The aim of this essay is to generate insights that can be useful in thinking over the nexus of law, utopia, and literature (Dolin, 1999; Anker & Meyer, 2017). It also investigates some paths which can be taken while designing future law. It converges with my reflection on what Derek Morgan calls conceptual biomedical diplomacy: “how ‘risk societies’ attempt to identify and negotiate, conceal and evade the ‘tragic choices’ that modern biomedicine requires” (2001: 39).

As Paul Kahn stated in *The Cultural Study of Law*, “the rule of law is a product of the imagination before it is a product of legislative and judicial acts” (2000: 73). In a later interview in the *German Law Journal*, he further explained that:

Law is part of the horizon of perspectives within which individuals are located; it provides the categories that allow us to create the narratives that give meaning to the world in which we live. The cultural analysis of law, therefore, wants to contribute to the understanding of who we are as subjects constructed — at least partially — through law. (Maldonado, 2020)

Seen from this perspective, the connection between law and utopia is clear. Rigid institutional regulations in certain “utopian” ideas are known to have resulted in dystopia; however, it does not make the question about the relation between law and utopia less salient. It is precisely the dystopian potential carried by the abuse of law, its wrong application or understanding, that is to be studied to be avoided.

Future law is a popular trend in contemporary studies, including topics such as the rights of robots, crowd law, legal design, robot-human relationships, attempts at drafting digital rights, and regulating genomics commerce (Edwards *et al.*, 2020; De Souza & Spohr, 2021; Future Law Lab, 2022). Problems such as cloning, genetic discrimination, the treatment of non-normative beings, or people with disabilities, and the management of postselves in the digital environment are also the subject of reflection developed within the sociology of technology (Lilley, 2013: 25–40; Stapleton & Byers, 2015: 89–140; Jacobsen, 2017: 1–39, 173–233). This reflection arises as a reaction to the immortality business, which pushes research into such technologies as synthetic biology, advancing the creation of lab-grown organs with the hope of eventually creating a complete synthetic body, cloning (with the landmark cloning of primates in 2018), mind upload (a subject of interest to startups like Nectome), and many

attempts at the artificial emulation of the workings of the human brain. There is a burgeoning market for genomics, more examples of A-Life (hybridized life forms or entirely artificial forms of life, such as exobots), and various means of human enhancement, for example, through genetic modification or cyborgization.

Mostly, these technologies generate issues of privacy, access to data, rights of third parties, distributive justice, and informed consent. From the legal standpoint, many of them fall within a grey zone. How far, for example, do I have a right to administer my genetic data, when much of it is shared with third parties (my family)? If artificial intelligence and I come up with an innovative design, who owns the intellectual property? Is genetic modification to remove susceptibility to HIV a life-saving procedure or an inadmissible intervention, breaching the rights of minors? Can the state or the market enforce certain means of enhancement on citizens (like subdermal eHealth implants) to facilitate the biopolitical management of the society? It has been observed that biotechnological progress raises questions that undermine fundamental concepts of law, such as the notion of the person and human dignity (Knoppers & Greely, 2019; Misseri, 2021: 177). These reflections frequently express anxieties about future laws being designed by superhumans, with no interest in the rights of non-enhanced humans.

What is more, the redefinition of these basic notions puts into question the definition of utopia itself (Jendrysik, 2011: 36–9; Bugajska, 2021, 2022). Biotechnological utopianism can be argued to have evolved from eugenic utopianism and the hygienic movements of the nineteenth century. However, today it seems to be more “total”: it should be understood that with evantropia comes not only superstrength, cognitive elasticity or extreme longevity but also, in the end, profound wisdom, control of emotions, and moral perfection. In this sense, evantropia is a total utopia, posing many challenges stemming from its individualistic and post-human character, which have been partially addressed in previous publications by Bugajska (2019a, 2021, 2022) and Misseri (2019, 2021).

The reflection on biotechnological utopia as evantropia, and the realization of the dream about the perfect human being, necessarily entails a biopolitical discussion. To a greater or lesser extent, *bios* and *thanatos* are the focus of any utopia, beginning with Thomas More’s “golden book”, which contains guidelines concerning marriage, euthanasia, hygiene, public health, and eating meat. Good examples of biopolitics-focused texts come from the nineteenth century and turn of the twentieth: Samuel Butler’s *Erewhon* (1872), John Macmillan Brown’s *Limanora* (1903), and Eduardo Urzaiz’s *Eugenia* (1919). They speak about the rational management of reproduction, of the role of women in society, and the application of the scientific method to the governance of the population. Ideas about who should exercise power over the life and death of the citizens of utopian states are vague, but range from a centralized vision, with the government held

responsible for the institution of suitable regulations, to “collective magnetic consciousness” generating what today might be called “crowd law”: a consensus arising between technologically connected individuals. The role of genetics and eugenics also dominated ideas about good biopolitics in subsequent decades, with such texts as *Beyond This Horizon* (1942) by Robert A. Heinlein and *Facial Justice* (1960) by L. P. Hartley, with increasingly fantastic, uchronic visions.

In Morgan’s popular *Altered Carbon* trilogy, a military “Envoy”, Takeshi Kovacs, lives in a futuristic world, characterized by expansion to other planets, diversity, and possibilities of body modification, and by the acceptance of technologies of immortality as the basis for societal functioning. Many minor enhancements are allowed, while extreme longevity is in the hands of the rich, making it easy for them to navigate around legal loopholes. The main technology used to obtain immortality is mind transfer combined with cloning: the data about one’s subjectivity is stored and updated regularly in cortical stacks that can be transferred between different bodies, or “sleeves”, as they are called in the *Altered Carbon* universe. Another popular technology is cryogenics. Essentially, one can live forever, provided that one can afford spare copies of the body. Both cortical stacks and sleeves are commodities, have prices, and can be bought on markets. What is more, although they are privatized, one can obtain a court permit for the appropriation of any part of a human being. In effect, the state can invoke the power of eminent domain over personal data in whatever form, although it generates protests within the postmortal society. A biopolitics based on an overarching “duty to live” makes it not only legal, but in most cases binding, to revive even the victims of suicide.

Despite the institution of technology that realizes one of the chief goals of evantropia, the infringement on individual privacy undermines this utopian ideal, which is further corrupted by issues relating to the allocation of resources, stemming from economic inequality and disregard for human dignity. The ideal dreamt up by the founders of the utopia degenerates, and gives rise to a world governed by crime, sex business, and the military, with many problems similar to today’s issues of human and organ trafficking. UN law forbids people like Takeshi, Envoys with far-reaching enhancements and militarized bodies, from holding corporate or governmental posts, which makes them turn to crime after serving their duty. Thus, Takeshi, like Agamben’s hybrid, stands outside the law but has to function in the world regulated by it. The motif of the inability to manage highly enhanced people within the society repeats across transhumanist fiction, and acquires special salience today, with such countries as the USA and France running “supersoldier” programmes.

One of the legal issues that stands out in the first part of the trilogy is the right to die, perversely defended by the Catholic minority. They believe that if they are resleeved, they will not be able to move on and continue in the afterlife.

For this reason, they oppose resleeving; however, their data is stored all the same, and questions arise if it can be brought to life without the owner's consent. A similar motif returns in part three, *Woken Furies*, where one of the characters, Sylvie, experiences brain death, and Takeshi wants to cut out her cortical stack from her body to prevent the damage updating to her data storage.

Since it is possible to download the consciousness into any body, the problem of double resleeving appears, and becomes an issue. For example, in *The Woken Furies*, Takeshi discovers that somebody resleeved a younger version of himself. Such a practice is against the law in the postmortal society, and the legal nightmare it entails is connected to accountability. Who can be held responsible for such resleeving: myself or a copy of myself? As long as they are not united, multiple sleeves and multiple copies can exist; however, when the digital data is embodied, it is understood to constitute an individual that cannot be artificially multiplied. The principles for this, however, are never explained, although many of them would probably stem from today's opposition to human cloning.

Much of the body and subjectivity trade is illegal, although the "sleeves" are considered less valuable and treated mostly as private property; however, they can be appropriated for other purposes by third parties and used in a body market (e.g. by the government, as part of punishment). Cortical stacks are much more important: they hold the memories and the subjectivity of a person, updated as often as every two hours, and destroying one means for a person's real death. Punishment is often inflicted on the data rather than on bodies. Criminals can be stored without the possibility of resleeving, while private cortical stacks cannot be legally sold.

These issues can be related to the existing regulation within the fields of data protection, self-ownership, euthanasia, and identity theft, much of which engenders discussion over human rights, such as Articles 1, 3, and 7 of the Universal Declaration on Bioethics and Human Rights (UNESCO, 2005) and constitutional rights in various countries (such as the right to life or privacy, the right not to disclose personal information, and the freedom from being subjected to scientific experimentation without voluntary consent). Some questions that can be asked are:

- Should people in a postmortal society have the right to die? Should euthanasia be legal?
- Who should administer the data stored in stacks?  
How is it protected?
- Does the state have the right to detain the digital postself of a human being?

- How can we define identity in relation to digital and physical data?
- Does the self-ownership principle extend to the management and copying of one's body for further use?
- Can the state appropriate the body as a "sleeve", not violating the self-ownership principle and fundamental human rights?
- Under what, if any, conditions can we legalize the full body and personal data trade?
- What would be the rules for the integration of super-enhanced people in society?

The fundamental question Morgan's trilogy raises is: if we alter human beings, will we have to alter the law? In Morgan's books, the law seems to continue on its own course: the change of humans into posthumans is not recognized as fundamental, and questions of anthropological crisis affecting fundamental notions of law are not addressed. The notion of death even today is seen as very complex, while in Morgan's world it is dealt with straightforwardly. Ordinary death means only the destruction of a sleeve, whereas real death is the destruction of the cortical stack. This does not seem to affect the definitions of murder or suicide. It can be stated that, contrary to what is usually expected from dystopias, the problem does not lie in hyperregulation but in the vagueness of central notions, like life, death, body, and person.

As to the viability of the legal solutions discernible in Morgan's immortal world, some of the existing concepts and solutions are redefined to fit the post-mortal society. The duty to live is extended to a legal practice forcing people who do not subscribe to immortalism to prolong their lives. Exceptions are made for some minority groups; however, there are attempts at overriding the objections of conscience, as for Catholics. This is not resolved in the trilogy. A right to die is a natural consequence of a postmortal society; however, it seems to be limited to a right to ordinary death, that is, the death of the body. In a dystopian world, the decision about real death is often left to those in power, who can destroy a person's digital traces. The labour limitations of highly enhanced humans could be perceived as discriminatory. However, as enhancements tend to be costly, this does not constitute a quantitatively significant social problem, because it is easier to afford a new sleeve than the healthcare that would make long life bearable. Thus, we can see that this evantropia is hollow and disregards its basic ideal: the total well-being of a person.

It can be stated that people in *Altered Carbon*, instead of instituting viable legal solutions, accept plurality and indefiniteness, and constant redefinition of the legal system as normal. The inefficiency of this solution can be seen in the proliferation

of crime, especially relating to data privacy. It is not a desirable solution; nevertheless, one can assume that with the institution of high individualization and customization, casuistry is the dominant form to be expected.

## Works Cited

Anker, Elizabeth, and Bernadette Meyer (2017), *New Directions in Law and Literature*. New York: Oxford University Press.

Brown, James Macmillan (1903), *Limanora, the Island of Progress*. New York: Putnam.

Bugajska, Anna (2019a), *Engineering Youth: the Evantropian Project in Young Adult Dystopias*. Krakow: Ignatianum University Press.

——— (2019b), "Will Postmortal Catholics Have 'The Right to Die'? The Transhumanist and Catholic Perspectives on Death and Immortality", *Forum Philosophicum* 24.2, pp. 397–433.

——— (2021), "The Future of Utopia in the Posthuman World", *Academia Letters*, Article 155, <<https://doi.org/10.20935/AL155>>.

——— (2022), "The Posthuman: Around the Vanishing Point of Utopia", in *Utopian Thinking in Law, Politics, Architecture and Technology: Hope in a Hopeless World*, ed. Bert Van Klink, Leon van der Broeke, and Marta Soniewicka. Cheltenham: Edward Elgar.

Butler, Samuel (1927), *Erewhon and Erewhon Revisited*. New York: The Modern Library [1872].

De Souza, Siddharth Peter, and Maximilian Spohr, eds. (2021), *Technology, Innovation and Access to Justice. Dialogues on the Future of Law*. Edinburgh: Edinburgh University Press.

Dolin, Kieran (1999), *Fiction and the Law: Legal Discourse in Victorian and Modernist Literature*. Cambridge: Cambridge University Press.

Edwards, Lilian, Burkhard Schafer, and Edina Harbinja, eds. (2020), *Future Law: Emerging Technology, Ethics and Regulation*. Edinburgh: Edinburgh University Press.

Future Law Lab (2022), "Prof. Bartosz Brożek o prawie i przyszłości", [Spotify podcast], online at <https://spoti.fi/3xUgVJ1> [accessed 28 September 2022].

Hartley, L. P. (1960), *Facial Justice*. London: Hamish Hamilton.

Heinlein, Robert A. (1979), *Beyond This Horizon*. New York: The New American Library [1942].

Jacobsen, Michael H., ed. (2017), *Postmortal Society: Towards a Sociology of Immortality*. New York: Routledge.

Jendrysik, Mark S. (2011), "Back to the Garden: New Visions of Posthuman Futures", *Utopian Studies*, 22.1, pp. 34–51 <<https://doi.org/10.5325/utopianstudies.22.1.0034>>.

Kahn, Paul (2000), *The Cultural Study of Law: Reconstructing Legal Scholarship*. Chicago: University of Chicago Press.

Knoppers, Bartha Maria, and Henry T. Greely (2019), "Biotechnologies Nibbling at the Legal 'Human'", *Science* 366.6472, pp. 1455–7 <<https://doi.org/10.1126/science.aaz5221>>.

Lilley, Stephen (2013), *Transhumanism and Society: The Social Debate over Human Enhancement*. New York: Springer.

Maldonado, Daniel Bonilla (2020), "The Cultural Analysis of Law: Questions and Answers with Paul Kahn", *German Law Journal* 21.2, pp. 284–98 <<https://doi.org/10.1017/glj.2020.4>>.

Misseri, Lucas E. (2016), "Evanthropia and Dysanropia: A Possible New Stage in the History of Utopias", in *More after More: Essays Commemorating the Five-Hundredth Anniversary of Thomas More's Utopia.*, ed. Ksenia Olkusz, Michał Kłosiński, and Krzysztof M. Maj. Krakow: FactaFicta Research Centre, pp. 26–43.

——— (2019), "Desplazamientos espaciales de la utopía: de la isla al cuerpo utópico", in *Lugares de utopía: tiempos, espacios y estrías*, ed. Juan Pro and Pedro José Mariblanca Corrales. Madrid: Polifemo, pp. 117–42.

——— (2021), "El Derecho en la Utopía: Análisis de la evolución histórica de ambos conceptos desde su oposición hasta su complementariedad", doctoral law thesis, Universidad de Alicante.

More, Thomas (1970), *Utopia*, ed. P. Turner. Harmondsworth: Penguin Books.

Morgan, Derek (2001), *Issues in Medical Law and Ethics*. London: Cavendish Publishing.

Morgan, Robert K. (2003), *Woken Furies*. London: Gollancz.

——— (2006), *Altered Carbon*. London: Gollancz.

——— (2007), *Broken Angels*. New York: Del Rey.

Stapleton, Patricia, and Andrew Byers (2015), *Biopolitics and Utopia: An Interdisciplinary Reader*. London: Palgrave Macmillan.

UNESCO (2005), Universal Declaration on Bioethics and Human Rights, <<https://unesdoc.unesco.org/ark:/48223/pf0000146180>> [accessed 24 March 2022].

Urzaiz, Eduardo (2020), *Eugenia: Ezbozo novelesco de costumbres futuras*. Ciudad de México: Universidad Nacional Autónoma de México.



