

Mexico City, June 3, 2024

## Mind Privacy: Neuro-Rights

Over time, the boundaries between different scientific fields have blurred, giving rise to new disciplines. In this context, advances in neuroscience and neurotechnology, along with artificial intelligence, are shaping a new paradigm for law worldwide.

### Neuroscience and Neurotechnology

Neuroscience is the study of the functioning of the human brain and nervous system to understand how it regulates emotions, thoughts, behaviors, and basic bodily functions. On the other hand, neurotechnology, as a subset of neuroscience, uses technologies such as AI to capture and analyze data from brain activity, which could make it possible to identify emotions, enhance cognitive abilities, and induce emotional states.

In 2017, an interdisciplinary group and representatives from technology companies met at Columbia University to discuss neuroethics and neurotechnologies, given the synergy between these scientific fields and projects such as Neuralink, which aims to create a bidirectional neural interface to influence our memories and behaviors through brain stimulation. Their goal was to formulate what they called "neuro-rights" as part of the fourth generation of human rights.

### Neuro-Rights

Neuro-rights represent a new international human rights framework that focuses on protecting the brain and its activities in line with advances in neuroscience and neurotechnology.

As a result, five neuro-rights have been proposed for inclusion in international treaties and local legislation:

1. **Preservation of Personal Identity:** Ensures that no neurotechnology alters an individual's personality or identity.
2. **Non-interference with Free Will:** Ensures that no neurotechnology manipulates or influences people's ability to make free and autonomous decisions.
3. **Privacy of Neural Data:** Establishes strict regulation of all neural data obtained from the measurement of neural activity, ensuring its protection and obtaining the explicit consent of the data owner.
4. **Equitable Access to Cognitive Enhancement:** Guarantees that all people have access to the use of neurotechnologies to enhance brain capacity.
5. **Protection from Algorithm Bias:** Seeks to develop mechanisms to prevent and avoid biases in the treatment of neurological data by AI systems.

### Regulation in Mexico

In Mexico's current legal framework, there is still no law that considers neuro-rights. Although a reform initiative to include neuro-rights in Article 4 of the Constitution was presented to the Chamber of Deputies in August 2023, there has been no update on this initiative.



The National Institute for Transparency, Access to Information and Personal Data Protection (INAI) has highlighted the urgency of enacting legislation to protect human dignity and privacy in the face of advances in neurotechnologies and artificial intelligence.

### **International Regulation**

The most prominent international policy development in this area is the Chilean Senate's approval of a constitutional reform bill that establishes mental integrity as a fundamental human right, along with a neuroprotection law that protects brain data and applies existing medical ethical principles. These measures aim to ensure that scientific and technological development benefits people and protects their fundamental rights against the misuse of neurotechnologies.

On the other hand, the "Recommendation on Responsible Innovation in Neurotechnology" adopted by the Council of the Organization for Economic Cooperation and Development (OECD) has established the first international standard in this field. In addition, the Council of Europe has launched a five-year Strategic Action Plan focusing on human rights and new biomedical technologies, including neurotechnology.

Finally, the Spanish Secretariat of State for Digitalization and Artificial Intelligence recently published a Digital Rights Charter that includes neuro-rights as part of citizens' rights in the digital age.

The intersection of neuroscience, neurotechnology, and artificial intelligence is creating a new landscape in the global legal arena. Neuro-rights, which are emerging as a response to this convergence, represent an important safeguard to protect the mental integrity and privacy of individuals in an increasingly technologically advanced world.

The inclusion of neuro-rights on the political and legal agenda at both national and international levels is crucial to ensuring an ethical and just future in the digital age.

### **Data Privacy Practice of ECIJA Mexico, S.C.**

socios.mexico@ecija.com

(+52 55) 56 62 68 40

[www.ecija.com](http://www.ecija.com)