

A conceptual framework for discussing a consensus definition of the neuroright to free will

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BACKGROUND AND OBJECTIVES

Neurorights proposals have recently succeeded at the national level in Chile, through constitutional reform (see La Tercera, 2021), and in Spain, through the Digital Rights Charter (see Sánchez, 2020). An ad hoc UN expert commission has also been proposed to work “to develop an international consensus definition of neuro-rights” (Yuste et al., 2021, p. 162). My proposal to seek a minimal definition of the neuroright to free will (FW) aligns with this approach (Muñoz, 2019), and I present here five challenges (C) and corresponding lines of action (A) as an initial attempt to establish a conceptual discussion framework for this definition.

(1) PHILOSOPHICAL MULTIDIMENSIONALITY

C1: There is a wide range of answers to the philosophical problem of compatibility between determinism and FW:

- Compatibilism: Determinism and FW are compatible
- Incompatibilism: Determinism and FW are not compatible
 - Libertarianism: Determinism is not true; we have FW
 - Hard determinism: Determinism is true; we do not have FW
 - Hard incompatibilism: FW is also incompatible with indeterminism; we do not have FW

A1: Explore whether a minimal conception can be found in which all these approaches converge or, alternatively, whether it is convenient to choose only one to develop a consensus definition.

(2) ULTIMATE CONTROL

C2: The NeuroRights Foundation’s proposal for FW states that “Individuals should have ultimate control over their own decision making, without unknown manipulation from external neurotechnologies” (see <https://neurorightsfoundation.org/>). While libertarians see ultimate control as an essential requirement for FW, this is criticized by compatibilists (e.g., Wolf, 2005, pp. 261–262).

A2: Elaborate on whether including ultimate control means aligning with libertarianism or, alternatively, seek a definition that dispenses with this concept.

(3) CULTURAL CONTEXTUALIZATION

C3: Some studies show that FW is a culturally changing concept, and also that Western societies give higher priority to FW as a value than do Eastern ones:

- Chernyak et al. (2019, p. 866) showed that, while Singaporean children “were more likely to elaborate on lack of free will by referencing punishment and/or having to seek permission from authorities”, U.S. children tended “to endorse the freedom to act against norms”
- A review by Berniūnas et al. (2021, p. 1) revealed that culturally diverse “lexical expressions of ‘free will’ [namely, Chinese, Hindi, Lithuanian, and Mongolian languages] do not refer to the same concept of free will”
- Wisniewski et al. (2019) showed that believing in a dualistic self made up of a physical brain and a non-physical mind seems to have a decisive influence on believing in free will, and pointed out religious and after-death beliefs as a possible cause

These findings invite us to consider culturally shaped factors such as social norms, languages, and beliefs as fundamental factors within an international debate aimed to find a consensus definition of neurorights in general, and free will in particular.

A3: Study whether and how a normative formalization of FW as a universal right/value can encompass its diverse cultural conceptions.

(4) REGULATORY FITTING

C4: The Universal Declaration of Human Rights (United Nations, 1948) seems to contemplate FW in some contexts, such as Articles 16.2 (free marriage), 18 (free thought), and 21.3 (free voting).

A4: Determine how implementing FW as a neuroright can effectively expand the current protections while avoiding overregulation.

(5) COGNITIVE LIBERTY

C5: While FW entails an ontological conception of personal autonomy, the neuroright to cognitive liberty—proposed by Ienca and Andorno (2017) and defined as “the right to alter one’s mental states with the help of neurotools as well as to refuse to do so” (Bublitz, 2013, p. 234)—refers either to practical freedom of thought or to specific practical choices.

A5: Explore conceptual links between the rights of FW and cognitive liberty, analyzing whether they are mutually exclusive, complementary, or interdependent.

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