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NEURO – RIGHTS AND THE INDIAN CONSTITUTION: SAFEGUARDING COGNITIVE LIBERTY IN THE AGE OF BRAIN – SURVEILLANCE

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ABSTARCT

The fast-paced development of neurotechnologies, such as brain-computer interfaces and neural monitoring devices, has posed new socio-legal issues in India. The technologies hold the capability to probe, manipulate, and exploit human mental processes and cognitive functions, and hence, raise pressing questions concerning mental privacy, cognitive liberty, and psychological integrity. This research paper analyses the conceptual and constitutional underpinnings of neuro-rights in India, testing their doctrinal nexus with the fundamental right to privacy under Article 21 of the Constitution. The research also assesses the degree to which current laws in India govern neurotechnology, determines key legal gaps, and considers the ethical and social consequence of brain-reading technologies on autonomy, consent, and freedom of thought. Comparative jurisdiction studies of countries like Chile and the European Union offer lessons for implementing full neuro-rights protections. The doctrinal research approach is employed to contend that Indian constitutional law should be extended to incorporate neuro-rights expressly, complemented by legislative changes and ethical safeguards. The research finds that protection of mental privacy is both legally required and a social responsibility, to the effect that technological development must not undermine human freedom of mind, autonomy, and dignity in today's digital age.

KEY WORDS: Neuro-Rights, Mental Privacy, Cognitive Liberty, Brain-Computer Interface, Constitutional Law, Fundamental Rights (Article 21), Ethical and Social Implications

INTRODUCTION

The twenty-first century has seen the rise of neurotechnology, which combines neuroscience and artificial intelligence. This technology can record, interpret, and even change human thoughts and emotions through brain-computer interfaces (BCIs), neuroimaging, and cognitive monitoring devices. While these innovations can transform fields like medicine, communication, and education, they also create serious challenges for individual autonomy, privacy, and dignity. They can invade the most personal aspect of human life—the mind itself. In India, the Supreme Court case Justice K.S. Puttaswamy v. Union of India (2017) recognized the right to privacy as part of Article 21. However, this right currently only covers informational and bodily aspects, leaving mental privacy unprotected from technological intrusion. The lack of specific constitutional or legal recognition for neuro-rights—such as mental privacy, cognitive freedom, and psychological integrity—creates a significant legal gap in a society that is increasingly adopting neuro-based technologies in areas like healthcare, employment, and surveillance. This gap threatens to violate essential freedoms under Articles 19 and 21, risking situations where individuals face brain data collection or

manipulation without their informed consent. Unlike countries like Chile, which have taken steps to include neuro-rights in their constitutions, India does not have a clear legal framework to protect citizens from potential neuro-surveillance and thought exploitation. This highlights the urgent need to examine how the Indian Constitution can adapt to acknowledge mental privacy and cognitive freedom as important aspects of human dignity in an era of brain-reading technology.

RESEARCH OBJECTIVES

1. To analyse the constitutional basis of the right to privacy under Article 21 and how it applies to mental privacy and cognitive freedom in India.
2. To examine the scope and limitations of current Indian laws, like the Information Technology Act of 2000 and the Digital Personal Data Protection Act of 2023, in addressing neural data and brain-computer interfaces.
3. To explore legal developments in other countries, especially Chile's constitutional amendment on neuro-rights, and assess how they relate to India.
4. To evaluate the social and legal impacts of neurotechnology on autonomy, consent, and mental integrity in Indian society.
5. To propose a legal framework for recognizing and protecting neuro-rights under the Indian Constitution that aligns with its core values of dignity, freedom, and privacy.

RESEARCH PROBLEM

In recent years, rapid advancements in neurotechnology, such as brain-computer interfaces (BCIs), neural implants, and cognitive monitoring devices, have made it possible to collect, interpret, and even manipulate human thoughts, emotions, and decision-making patterns. These technologies are now used not only in medicine and research but also in commercial, employment, and surveillance contexts. However, in India, while the Supreme Court in Justice K.S. Puttaswamy v. Union of India (2017) recognized privacy as a fundamental right under Article 21, the legal understanding of privacy remains limited to informational, bodily, and decisional aspects. This leaves mental privacy and cognitive liberty unprotected. The lack of a specific legal or constitutional framework to address the use and misuse of brain data raises serious concerns about human dignity, liberty, and freedom of thought. Unlike Chile, which has explicitly recognized "neuro-rights" in its constitution, India does not have a clear doctrine to protect individuals from unauthorized access or manipulation of neural information. Therefore, it is crucial to examine how the provisions of the Indian Constitution can evolve to recognize and protect neuro-rights, including mental privacy, psychological integrity, and cognitive freedom, as emerging brain-reading technologies threaten to blur the lines between thought and surveillance.

HYPOTHESIS

H_1 - The current Indian legal and constitutional system is insufficient to protect mental privacy, cognitive freedom, and psychological integrity from the emerging challenges posed by neurotechnology and brain-computer interfaces. Consequently, it is crucial to recognize and formally define neuro-rights as an extension of the fundamental right to privacy under Article 21 of the Indian Constitution, ensuring the protection of human dignity, autonomy, and mental freedom in the digital age.

RESEARCH QUESTIONS

1. What is the basis for neuro-rights, and how do they connect to the right to privacy as outlined in the Indian Constitution?
2. How well do current Indian laws manage the use of brain-computer interfaces and neurotechnologies?

3. How have other countries recognized and protected neuro-rights, and what can India learn from them?
4. What are the ethical and social effects of brain-reading technologies on autonomy, consent, and mental freedom in Indian society?
5. How can Indian law evolve to formally include mental privacy, cognitive liberty, and psychological integrity as part of fundamental rights?

SCOPE OF THE STUDY

This study aims to investigate the emerging social and legal challenges posed by neurotechnology in India, focusing on the protection of mental privacy, cognitive liberty, and psychological integrity under the Indian Constitution. It will examine the right to privacy under Article 21 and assess whether current laws, like the Information Technology Act, 2000, and the Digital Personal Data Protection Act, 2023, can address the legal and ethical challenges of brain-computer interfaces, neural monitoring devices, and cognitive data use. The research will also include a comparative analysis of international legal frameworks, such as Chile's constitutional recognition of neuro-rights, to identify possible models for India. The study primarily analyses legal texts, court decisions, academic literature, and policy documents, considering the broader social and ethical issues at play. The findings will help create a framework for acknowledging neuro-rights in India, highlighting both legal protections and societal implications.

LIMITATION OF THE STUDY

1. The study is doctrinal and relies heavily on secondary sources and legal texts, without including empirical or field-based data.
2. As neurotechnology evolves quickly, the research may not address future developments in brain-computer interfaces and neural monitoring devices.
3. There are few existing Indian legal cases specifically addressing neuro-rights, which limits direct doctrinal analysis.
4. Comparative analysis is limited to countries that recognize neuro-rights, and the legal context in India may vary greatly.
5. Ethical and technological implications are discussed in a conceptual manner, and the study does not offer technical solutions for regulating neurotechnology

RESEARCH METHODOLOGY

This study uses a doctrinal research approach, concentrating on a detailed analysis of legal texts, constitutional articles, laws, case rulings, and scholarly literature to assess the scope and protection of neuro-rights in India. sources include the Constitution of India, especially Articles 21 and 19, relevant laws like the Information Technology Act, 2000, and the Digital Personal Data Protection Act, 2023, along with judicial rulings such as Justice K.S. Puttaswamy v. Union of India (2017), which provide the foundation for privacy rights. consist of academic books, research papers, policy documents, and comparative studies from countries that have recognized neuro-rights, like Chile and the European Union. The research is qualitative and analytical, examining legal principles and their application to new neurotechnologies, while also considering the social, ethical, and human rights aspects of mental privacy, cognitive liberty, and psychological integrity. Through this approach, the study seeks to synthesize existing legal thought and scholarship to propose a clear framework for recognizing and protecting neuro-rights in India in response to the challenges posed by brain-reading technologies.

CONCEPTUAL AND CONSTITUTIONAL BASIS OF NEURO RIGHTS

Conceptual Basis:

Neuro-rights are basic human rights that protect the mind, thoughts, and cognitive processes from unauthorized access,

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manipulation, or exploitation through neurotechnologies like brain-computer interfaces, neural implants, and cognitive monitoring devices. They extend the ideas of human dignity, autonomy, and freedom of thought, which are key parts of a person's identity and ability to make decisions. Neuro-rights include mental privacy, cognitive liberty, psychological integrity, and control over one's own neural data. They aim to prevent situations where technology invades the deepest parts of human consciousness without consent. This helps protect personal autonomy in the digital and neuro-technological age.

Constitutional Basis in India:

In India, neuro-rights can be linked to the fundamental rights guaranteed by the Constitution, especially Article 21 (Right to Life and Personal Liberty). The Supreme Court interpreted this in the case of Justice K.S. Puttaswamy v. Union of India (2017) to include the right to privacy. This ruling sees privacy as a key part of human dignity, autonomy, and bodily integrity, and it can be reasonably expanded to include mental privacy in today's era of neurotechnology. Articles 19(1)(a) (freedom of speech and expression) and 19(1)(b) (freedom of thought) also support the protection of cognitive liberty. Although Indian law does not currently recognize neuro-rights explicitly, the principles of privacy, dignity, and liberty in the Constitution provide a strong basis for their inclusion. This suggests that any invasion of neural processes without consent could violate fundamental rights.[1711]

Relation to Existing Right to Privacy:

The current right to privacy in India mainly safeguards informational, bodily, and decisional privacy, but it has not explicitly addressed the inner mental realm. Neuro-rights broaden this idea by including thoughts, emotions, and cognition, which are becoming more vulnerable to intrusion from neurotechnology. Essentially, neuro-rights can be viewed as a natural extension of Article 21. They ensure that the constitutional protection of privacy updates to tackle new technological challenges, thus maintaining mental autonomy and protecting the human mind from unauthorized exploitation.[1712]

THE EXTENT TO WHICH CURRENTS LAWS REGULATE BRAIN – COMPUTER INTERFACES AND PRIVACY

The Indian legal system currently lacks specific laws or regulations for neurotechnology, brain-computer interfaces (BCIs), and neural data collection. While technology is advancing quickly, the law has not kept up with innovations that can directly access and manipulate human thoughts. Existing statutes, like the Information Technology Act of 2000 and the Digital Personal Data Protection Act of 2023, mainly focus on data privacy, cybersecurity, and digital consent. Although they protect personal data from unauthorized access and misuse, these laws are geared toward standard digital data and do not specifically include brain data or cognitive information, which are far more sensitive and closely linked to a person's identity and autonomy. Although is a significant legislative step toward regulating data privacy, it remains inadequate in addressing the complex challenges posed by neurotechnology. The Act primarily protects "personal data," which it defines in terms of *digital identifiers, biometric information, or communication data.* However, it does not explicitly include "neural data"—that is, information derived directly from brain activity or cognitive signals.

Additionally, criminal laws under the Indian Penal Code, such as those addressing privacy invasion, harassment, or misuse of electronic information, do not consider the intrusion into mental processes through neurotechnology. Laws related to medical devices or research ethics, like the Drugs and Cosmetics Act and the Indian Council of

[1711] M.P. Jain, *Indian Constitutional Law* 98 (5th edn., Kamal Law House, Calcutta, 1998);

[1712] Somdyuti Das & Rajdeep Ghosh, "Neuro-Rights in India: A Legal Framework for the Future," 6 *Bennett J. Legal Stud.* 109 (2025).

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Medical Research (ICMR) guidelines, mainly apply to clinical or experimental settings. They do not provide protections for the everyday use of neuro-devices in workplaces, schools, or personal life. This legal gap poses a risk for misuse of neural data by private companies, government agencies, or other entities, without proper safeguards.[1713]

From a constitutional standpoint, the right to privacy under Article 21[1714], as recognized in Puttaswamy, lays the groundwork for protecting mental privacy. However, the judiciary has not yet addressed cases involving neurotechnology or brain data. This leaves a crucial area of cognitive autonomy unprotected under Indian law. On the international stage, some countries, like Chile, have started recognizing neuro-rights, including the right to mental integrity and freedom from non-consensual brain intervention. This highlights India's legal lag in this area.

In short, while India has general privacy and data protection laws, they are not enough to govern the use of brain-computer interfaces or neurotechnologies. There is an urgent need to either modify existing laws or create new ones that clearly address mental privacy, cognitive liberty, and the ethical use of neurotechnology. This will ensure that the constitutional rights of dignity, autonomy, and freedom of thought are fully protected in today's technological landscape.

HOW OTHER JURISDICTIONS SEE THIS NEURO RIGHTS IN THE WORLD

A number of countries and global scholars have started identifying neuro-rights as a new class of basic rights to respond to ethical and legal concerns regarding neurotechnology. An excellent example is Chile, which in 2021 added a provision to its constitution to clearly include the protection of mental integrity and cognitive freedom. This amendment forbids involuntary manipulation of the brain activity and assures that all people are entitled to their own neural data control. Chile's initiative is innovative because it recognizes that human thoughts and mental processes are naturally private and should be protected by law and that technological developments should not compromise personal autonomy.

Likewise, within the European Union, debates under the European Group on Ethics in Science and New Technologies (EGE) highlight the significance of acknowledging mental privacy, cognitive autonomy, and psychological integrity in new legal architectures. Although the EU has not yet enacted neuro-rights into constitutional law, its regulatory guidelines and ethical advice emphasize the requirement for stringent consent, safeguarding against unwarranted brain data acquisition, and responsible employment of neurotechnologies in healthcare, the workplace, and research. These actions demonstrate how legal entrenchment of neuro-rights integrates ethical standards with enforceable protection against misuse. The implications for India are obvious. First, it is necessary to formally extend the current right of privacy under Article 21 to include mental privacy and cognitive freedom since the existing laws do not take into account neural data. Secondly, India can draw inspiration from Chile's constitutional framework to contemplate including neuro-rights as basic rights, making citizens' mental sovereignty and dignity safeguarded from tech invasiveness. Third, ethical principles like the EU's can be established to govern private and commercial applications of neurotechnology, establishing standards of informed consent, data protection, and accountability.

Apart from constitutional changes in Chile and debates in the European Union, UNESCO in 2023 launched the Ethical Framework for Neurotechnology as an international milestone acknowledging mental privacy and cognitive freedom as human rights issues. The move emphasizes that the human mind has to

[1713] Anjali Sharma & R.K. Verma, "Neuro Rights: Safeguarding Mental Autonomy in a Digital Era," 2024 *Int'l J. Family Med. & Primary Care*, 25 Nov; The Information Technology Act, 2000; The Digital Personal Data Protection Act, 2023; The Indian Penal Code, 1860, ss. 42, 72, 75;
[1714] SUPRA 1

be an insular area, safe from devious manipulation or unauthorized entry. UNESCO's model fits in with India's constitutional ideals of dignity and autonomy under Article 21, supporting the contention that mental privacy must be acknowledged legally explicitly. Through the inclusion of the ethical considerations presented by UNESCO, India can implement a cosmopolitan convergent and rights-based approach to regulating neurotechnology.[1715]

Thus, experiences globally underscore the significance of asserting neuro-rights as independent legal safeguards, balancing technological advancements with human freedoms. For India, embracing a mix of constitutional acknowledgment, parliamentary protection, and ethical principles would guarantee that the exponential development of neurotechnology would not undermine the essential values of autonomy, dignity, and privacy, thus meeting an urgent socio-legal challenge in the contemporary era.[1716]

ETHICAL AND SOCIAL CONSEQUENCES OF BRAIN – READING TECHOLOGIES ON AUTONOMY, CONSENT AND MENTAL LIBERTY IN SOCIETY

Emergence of brain-reading technologies such as brain-computer interfaces (BCIs), neural monitoring devices, and cognitive data analytics pose deep ethical and social issues for Indian society. At the heart of it is the issue of autonomy, since these technologies can potentially reach into, read, or even control thoughts and feelings without a person's complete awareness or permission. In a nation like India, which is still building awareness regarding digital privacy and new technologies, this poses a major danger of people unwittingly handing over their mental functioning to others, diminishing their freedom of thought and individual choice-making.

Consent is a large ethical issue as well. Common senses of informed consent in India have traditionally been used for clinical procedures or the gathering of data, and do not as yet extend to the gathering of neural or cognitive data. Brain-reading technology has the ability to gather subconscious thoughts or feelings that a subject might be unaware of themselves, which creates highly problematic ethical issues about voluntary assent and the borders of consent. Abuse of such information—by employers, schools, or corporations—is likely to result in discrimination, exploitation, or coercion, further compromising individual autonomy and dignity.

Social consequences are no less serious. The invasion of mental privacy is likely to impinge on social relationships, jobs, and educational equity since neural information might be employed to profile, predict behaviour, or sway choices. In a multicultural and populous country like India, this may intensify social inequalities as well as generate new kind of control or observation. Mental manipulation or unauthorized access to brain information can also have psychological effects, such as stress, anxiety, or feeling of helplessness, thus impacting general well-being of society. From the constitutional point of view, these social and ethical issues underscore the importance of legal protection of neuro-rights as a component of the wider right to privacy, dignity, and liberty under Articles 21 and 19. Guarding people against mental intrusion will ensure that technological advancement does not undermine fundamental freedoms. By defining well-established legal and ethical structures, India is able to protect autonomy, consent, and mental liberty so that brain-reading technologies may be employed responsibly and ethically and in accordance with societal values.

Developing Indian constitutional juris, the rapid emergence of neurotechnology requires that Indian constitutional jurisprudence develops to identify and protect neuro-rights, including mental privacy, cognitive freedom

[1715] UNESCO, *Ethical Framework for Neurotechnology*, United Nations Educational, Scientific and Cultural Organization, Paris (2023) https://www.unesco.org/en/neurotechnology

[1716] Constitutional Amendment Recognizing Neuro-Rights, 2021; European Group on Ethics in Science and New Technologies (EGE), *Ethical Guidelines on Neurotechnology* (2020).

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and psychological integrity. Currently, the right to privacy under Article 21, as Justice K.S. Putaswamy vs. Union of India (2017) form the principal foundation to protect personal autonomy and dignity. However, this right is mainly applied to informative and physical privacy, leaving mental processes and nerve data insecure. To address this difference, the judiciary and legislature must explain in detail Article 21 to include the internal sanctum of human thoughts, ensuring that there is no violation by technology without the consent of any person's cognitive autonomy. A possible approach is through judicial activism, where courts can teach neuro-rights in existing fundamental rights, similarly how the Supreme Court recognized the right to secrecy as an internal for the right to life. By analogy logic, unauthorized access or manipulation of thoughts and mental states can be considered as a violation of Article 21[1717], such as physical or informative infiltration. Additionally, articles 19 (1) (A) and 19 (1) (B)[1718], guaranteeing the freedom of speech and thoughts, can be interpreted to protect cognitive freedom, making it a constitutionally recognized domain that can be violated by neurotechnological interventions. Legislative intervention can further strengthen this safety by implementing those specific laws or amendments that define mental privacy and neuro-rights, regulate the use of brain-computer interfaces, and determine punishment for violations. India can also attract lessons from international models, e.g., Chile's constitutional enshrinement of neuro-rights, adapting protections to India's socio-legal environment. Ethical standards for research, market use, and government monitoring of neural information can supplement constitutional protection, furnishing an all-encompassing framework for mental autonomy in the information age.

Therefore, Indian constitutional jurisprudence can develop in order to safeguard neuro-rights by broadening the ambit of existing fundamental rights, promoting legislative intervention, and integrating ethical principles for new technologies. Identifying mental privacy, cognitive liberty, and psychological integrity as key components of human dignity ensures that technological progress is not at the expense of the very essence of autonomy, freedom, and personal liberty embodied in the Constitution.[1719]

FINDINGS

1. Legal Vacuum on Neuro-Rights: India does not have any laws or constitutional provisions for neuro-rights at present, and as a result, mental privacy, cognitive freedom, and psychological integrity are not safeguarded against new neurotechnologies like brain-computer interfaces and neural monitoring devices. Current data protection and privacy legislations deal with traditional digital information but do not specifically mention protection of brain data or neural activity.
2. Constitutional Potential for Protection: Article 21 of the Indian Constitution, interpreted in Justice K.S. Puttaswamy v. Union of India (2017), presents a doctrinal basis for extending the right to privacy into the mental sphere. The research discovers that, by virtue of judicial interpretation and analogical reasoning, the right to privacy may be extended to mental autonomy, freedom of thought, and psychological integrity.
3. Ethical and Social Implications: Brain-reading technologies raise serious ethical issues, such as non-consensual access to thoughts, manipulation of feelings or conduct, and psychological damage. Societally, they may impact employment, education, and social relationships, introducing new surveillance and inequalities in Indian society.

[1717] The Constitution of India, arts. 21, right to life and personal liberty
[1718] The Constitution of India, arts. 21, 19(1)(a) & 19(1)(b)
[1719] SUPRA 1 AND 3

4. Lessons from Foreign Jurisdictions: Comparative analysis demonstrates that nations such as Chile and directives of the European Union have commenced identifying neuro-rights, mental integrity, and cognitive freedom as such. These models prove that it is possible and imperative for legal acknowledgment of neuro-rights and offer a template for India to take into account while developing protective legislation.
5. Need for Doctrinal and Legislative Reforms: The research underlines that a confluence of judicial recognition, statutory protection, and ethical standards is needed to best safeguard neuro-rights. The report stresses that merely liberalizing constitutional interpretation is not enough; detailed legal and regulatory frameworks are needed to tackle the socio-legal issues regarding neurotechnology.
6. Social Imperative of Neuro-Rights: Last but not least, the study discovers that the protection of neuro-rights is not a matter of law alone but a social imperative. The preservation of mental privacy and cognitive freedom protects human dignity, autonomy, and liberty of thought, ensuring balance between technological advancements and basic rights in India.

CONCLUSION

With the dawn of fast evolving neurotechnology, safeguarding mental privacy, cognitive freedom, and psychological integrity has emerged as an issue of socio-legal urgency in India. Although the Supreme Court recognition of the right to privacy under Article 21 offers a starting point, it still fails to directly protect the inner space of human thought from invasion or control through brain-computer interfaces and neural monitoring devices. Lack of clear statutory or constitutional provisions leaves a serious legal void, exposing citizens to unapproved entry, exploitation, or coercion. Experiences from states such as Chile and ethical principles of the European Union demonstrate the feasibility and need for open identification of neuro-rights and the harmonization of technological advancement and the dignity and autonomy of individuals. By doctrinally broadening the ambit of fundamental rights, promoting legislative changes, and establishing ethical protections, India can create an all-encompassing legal framework that promotes the accountable use of neurotechnology while safeguarding the essence of autonomy, liberty, and dignity. Finally, identifying and safeguarding neuro-rights is not simply a legal obligation but a social requirement, making sure that the human mind continues to be a territory of liberty, integrity, and self-determination in the contemporary technological age.

RECOMMENDATIONS

1. Neuro-Rights in the Constitution: It is suggested that the Indian parliament and courts consider formally enshrining neuro-rights—such as mental privacy, cognitive liberty, and psychological integrity—as an expansion of the constitutional right to privacy guaranteed by Article 21. This would create a doctrinal and constitutional framework for safeguarding individuals against improper access, manipulation, or exploitation of neural information.
2. Legislative Reforms: India must implement tailor-made legislation governing neurotechnology, such as brain-computer interfaces and neural monitoring devices. Such laws should establish the concept of mental privacy, establish explicit consent standards, control the storage and use of neural information, and impose penalties for breaches. These legislations must address medical, commercial, educational, and employment applications of neurotechnology.
3. Ethical Frameworks and Oversight Mechanisms: Ethical guidelines and oversight mechanisms should be

formulated by the government and professional organizations to guarantee that neurotechnology is used responsibly. The guidelines should cover informed consent, data security, psychological well-being, and restrictions on cognitive experimentation, to guarantee that neurotechnologies are utilized ethically and safely.

4. Public Awareness and Education: Increasing societal awareness regarding neurotechnology and its implications is necessary. Educational efforts should raise citizens' awareness about their rights regarding brain data, the threats of cognitive intrusion, and means of protecting mental privacy in everyday life, to promote responsible use and informed consent.
5. Comparative Legal Learning: India may learn from jurisdictions such as Chile and the European Union, which have integrated neuro-rights into constitutional or ethical structures. Transplanting those models into the Indian socio-legal environment can facilitate establishing strong protections while ensuring technological innovation.
6. Integration with Current Privacy and Data Protection Legislation: Neuro-rights protections need to be aligned with current privacy and data protection legislation, including the Digital Personal Data Protection Act, 2023, so that neural data will enjoy the same or even greater levels of security and consent standards as other personal data.
7. Continuous Review and Technological Adaptation: With the quick rate at which neurotechnology develops, legal and regulatory systems ought to have provisions for regular reviews and revisions such that novel technologies are always tracked and harmonized with constitutional and ethical standards.

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