

## Neurotechnology, Neuropower, and Neurorights

Francesco Stocchi (University of Milano-Bicocca)

This paper aims to explore the relationship between neurotechnologies, new forms of power, and their interaction within the legal framework provided by the constitutional system. To achieve this, we will clearly define the concepts of 'law', 'power', and 'rule of law' using the tools of analytical philosophy of law. In this study, we will utilise Foucauldian categories of biopower, technology of the self, and technology of power to explore the potential dual nature of neurotechnology.

First, we will argue that, as a technology of power, neurotechnology can be seen as a tool for both public coercive power and new forms of private power. The most problematic ones are the private powers. Unlike public powers, the latter do not have clear and specific limitations in place that are justified by the human rights framework typical of modern democratic states that respect the rule of law.

Additionally, we will demonstrate another aspect of neurotechnologies that has not been sufficiently explored. These technologies can serve as technologies of the self. Foucault defines them as technologies that give individuals the power to modify their bodies and brains in order to attain a certain state of happiness, wisdom, or immortality. When defined in this sense, we can trace a connection between neurotechnologies and transhumanist ideas such as human enhancement that influence many big tech companies. This link between transhumanist ideology and neurotechnologies can lead public opinion and legislators to have a false or flawed perception of the potential risks and benefits stemming from enhancement.

Finally, after acknowledging these new forms of power, we must inquire whether our current legal framework can provide adequate protection for individuals or if new instruments are necessary. Therefore, we will conclude by exploring the recent debate on neurorights to assess whether some of the proposed new rights can serve this purpose.

## REFERENCES

- N. BOBBIO, *Il potere e il diritto.*, in *Nuova Antologia*, Aprile-Giugno, 1982, p. 68–80;  
B. RUSSELL, *Il potere. Una nuova analisi sociale*, Feltrinelli, Milano, 1972;  
U. SCARPELLI, *Diritto*, in *Gli strumenti del sapere contemporaneo*, UTET, 1985;  
M. WEBER, *Sociologia del potere*, PGreco Edizioni, Milano, 2014.  
M. FOUCAULT, *Tecnologie del Sé*, Bollati Boringhieri, Torino, 1992; *Nascita della biopolitica. Corso al Collège de France (1978-1979)*, Feltrinelli, Milano, 2005.  
L. FERRAJOLI, *Principia Iuris. Teoria del diritto e della democrazia. Vol. I. Teoria del diritto*, Laterza, Roma, 2001;  
S. ZUBOFF, *Il capitalismo della sorveglianza*, LUISS University Press, Roma, 2019.  
N. A. FARAHANY, *The battle for your brain*, St. Martin's Press, New York, 2023;  
S. LIGTHART et al., *Minding Rights: Mapping Ethical and Legal Foundations of 'Neurorights'*, in *Cambridge Quarterly of Healthcare Ethics*, 2023, p. 1–21.