



Bioethical Voices

Newsletter of the UNESCO Chair in Bioethics, Haifa

Editorial

Ethics in professions: let's start from deontology

This Newsletter offers a massive overview of the work of the UNESCO Chair of Bioethics 12th World Conference on Bioethics, Medical Ethics and Health Law, held in Cyprus last 21-23 March. You will find here extensive information on the state of the art in this regard, and each one will also be able to assess the state of health of bioethics in the world, everywhere on the move to achieve a new equilibrium between science and society. Even more than in the previous congresses, we have left behind us a bioethics once mistakenly perceived as completely circumscribed to the fundamental but not exclusive theme of the end of life, to deal with other dilemmatic aspects of life, apparently strictly medical again. And this is because - as you will see in the pages that follow - much of the bioethics at the centre of the congressional debate is essentially about health issues. In this framework, the relationships between patients and healthcare providers have had a special focus and attention. An ethical project in hospitals and targeted to general practitioners has been invoked. With some strongly relaunched recommendations. These, translated by us, almost in slogans. Putting the patient's will in the centre. The relationships concerning the doctor and the healthcare structure oriented to the patient. To her wishes, to

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Bioethics & Legislation

A PROPOSAL FOR A:

“UNIVERSAL DECLARATION ON NEUROSCIENCE AND HUMAN RIGHTS”

1. Introduction: an increasing fast development of the Neurosciences across the world.

Since when former President George H. Bush has proclaimed the Nineties of the last Century as the decade of the Brain, some very important results have been achieved in neuroscientific research and in its technological outcomes.

They may be brought into consideration just the today two greatest endeavors: the “Brain Research Through Advancing Innovative Neurotechnologies Project” (B.R.A.I.N.), in the U.S. (Obama’s Presidency), and the “Human Brain Project” (H.B.P.) in the E.U. (EU Commission), to easily estimate how the neurosciences are gaining worldwide more and more consideration in the landscape of human knowledge, both right now, either for the further generations, and across the several States.

Indeed, the neurosciences, as the genetics, switch on an extremely powerful light on what the human nature deeply is, and on what the human exceptionality should be, in respect of all the other living beings.

Now, if there is an intense debate, conducted by a prestigious legal doctrine in the U.S. and in the E.U., and an increasing case-law, only but a few normative general documents have been approved until now about the neuroscientific research and the usage of neuroscientific results and technologies both by policy-makers and judges, both by private persons, and no-one at international level.

For instance, the French lawmakers have expressly introduced an amendment in the “Code de la Bioéthique” to provide some legal principles for the usage of neuroscience in the respect of citizen’s rights.

While in that respect have been some excellent reports and working-documents, no specific activity seems to have been extensively carried out, until nowadays, at the UNESCO level or by the DH-BIO or by the U.S. President’s Bioethics Commission, in order to draft a specific charter of human rights and fundamental principles on Neuroscience.

2. The possible, foreseeable impact of neurosciences on the legal environment

A standard-setting system of rules specifically elaborated for the neurosciences, and also uniform across the several States, may help scientists and practitioners, who are operating in an international dimension, as well as lawmakers and judges to cope with those neuroscientific acquisitions and technical evolutions in the various legal fields.

For example, the neurosciences have been used in the lawsuits, as legal evidence or to prove the existence of a legal excuse, mostly of insanity, by providing insights in the functioning of normal and ab-

normal brain/mind.

The same neurosciences have been supporting the differentiated legal regimes for minors and adolescents mostly in respect of the death penalty.

The medical data provided by the neuroscientific knowledge and by the biomechanical neuro-devices are widely used in order to diagnose and treat illnesses.

The neuroscientific research and the technical developments are raising legal questions in order to ensure the protection of people involved in the experiments and to an equitable access to the neuroscientific results.

The capability of the neurosciences and of the correlated drugs or devices to interfere with some particular cognitive capacities, like memory or emotions or fear or pain or distress, must be taken into account in order to provide a legal protection of the persons involved, in general and in some specific cases such as in the military.

The neurosciences may promote a redefinition of the standards of legal death and of its determination, and may be used in order to ascertain the various states of critical unconsciousness.

The protection and the support of individuals with cognitive impairments, considered as vulnerable persons, must be reaffirmed.

The no tropics or electromagnetic devices for cognitive and even moral enhancement are asking for principles and rules to govern their usage and effects.

The interfacing between brain and computers for supportive and augmented communication, for rehabilitative purposes or in general, has to be considered.

3. The absence of an international legal framework about the Neurosciences and Human Rights

At the end, is the same nature of the endeavor in the neurosciences, by understanding and (eventually) by changing the human brain and the human mind, which are unique for each individual and general for the mankind, that is intimately connected with human dignity and personal identity like the genome.

But, while genetics has raised up the international reaffirmation of some fundamental principles and rights – such as the UNESCO's Universal Declaration on Human Genome and Human Rights and the Universal Declaration on Human Genetics Data – the neurosciences cannot count, until now, on a proper universal legal document notwithstanding the several legal aspects affected and above summarized, which seems to be common across the various States.

Therefore, it appears to be at least opportune (when not necessary) initiating the study of a sort of "*Universal Declaration on Neuroscience and Human Rights*" in order to determine some general ethical and legal guidelines, at international level, covering the most issues raised up now and foreseeable at the time to come in the field of neuroscience and to reaffirm and promote the shared principles and rights invoked by the UNESCO's long lasting tradition for the present and future generations.

4. An “outline” of the fundamental rights and principles on Neurosciences

Of course, those principles and rights of the new “*Universal Declaration on Neuroscience and Human Rights*” have to be identified accordingly to the general scheme set by the “*Universal Declaration on Bioethics and Human Rights*” adopted by the UNESCO’s General Conference on 19 October 2005.

Firstly, this new Declaration must reaffirm the value of “human dignity” and the value of “personal identity”.

Then, this new Declaration must also take into consideration the value of “uniqueness of each human being because of the unique characteristics of its brain/mind”.

Also, this new Declaration has to consider the neurosciences and the correlated neuro-techniques as instruments to promote the “right of self-determination and personality development”.

Then, the “principle of autonomy and informed consent” may be incorporated, in this new Declaration, in relation to the use of neuroscience in the medical treatment and in the clinical research, and the “precautionary principle” may be affirmed for the administration of no tropics or neuro-devices which are extremely experimental.

At the same time, the new Declaration has to reaffirm the “right to health” in order to provide a legal ground for the use of neuro-scientific knowledge, and of correlated apparatuses and drugs, for curative purposes.

Then, the protection of the “bodily liberty and physical integrity” has to be underlined in this new Declaration because of the capability of neuro-devices to be deeply interconnected with the human body.

Also “personal data protection” has to be recognized, in the same Declaration, as a fundamental right considering the data related to health as “highly sensitive information”.

The “principle of due process” should be substantiated, in this new Declaration, regarding the use of the neuro-scientific evidence in the lawsuits.

Innovative should be also the insertion, in this new Declaration, of a specific fundamental right of “freedom of thought”, as an extension of the traditional freedom of speech, in order to protect the brain of the individual from unwanted, as well as from abusive manipulation of the neural correlates of memories and emotions.

The “principle that every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others” and the “principle of the promotion of the usage of brain-computer interfaces and other brain-devices or no tropic to improve their life’s conditions” should be considered in this new Declaration in order to increase the general welfare of vulnerable persons.

The “principle of beneficence and non-maleficence”, the “principle of non-discrimination”, the “principle of fair access”, may be affirmed in cognitive enhancement applications under the spirit of this new Declaration.

A sort of “relational principle” may be considered, in this new Declaration, in order to take into ac-

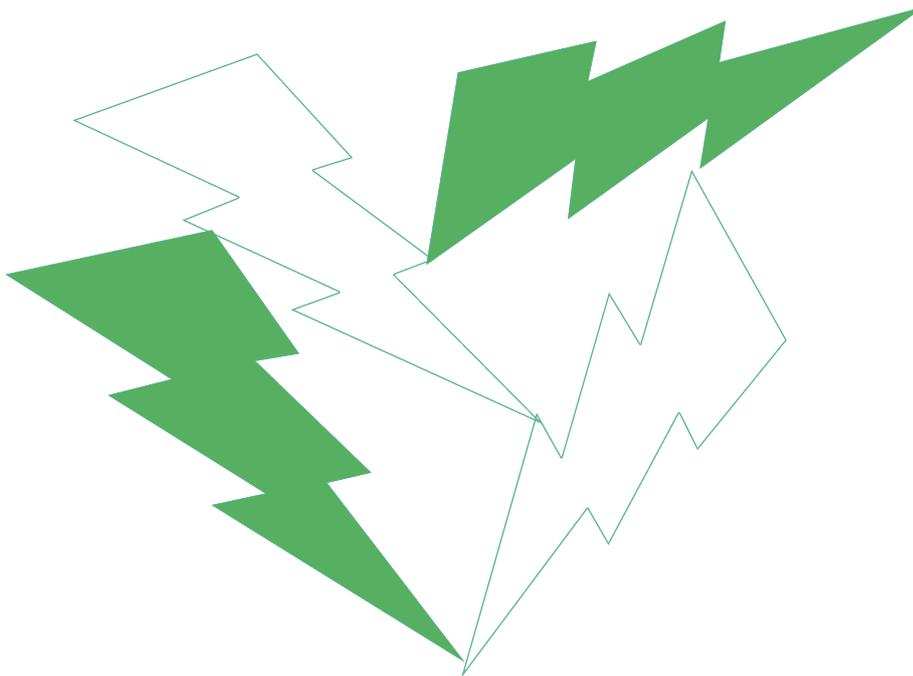
count the fact that the mental identity of the individual is deeply and significantly constructed also by the contributions given by other individuals, so that the other subjects (e.g. parents, spouses, relatives...) may be entitled of a sort of legal interest or right to assent to neurological transformation when the enhancement radically transforms the behavior, or the identity of the person, with whom the same subjects are interrelated by binding relationships.

5. Conclusions: the role of the UNESCO

While it is easy to understand that ethical issues related to the advances in the neurosciences and their applications were and still are highly topical, their roots may be identified in, and contribute to, cultural, philosophical and even religious bedrock of various human communities, so that there are reason enough for UNESCO to take the lead in this initiative to draft this Universal Declaration on Neurosciences and Human Rights.

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Editorial Board Announcements

NEWSLETTER'S CONTRIBUTIONS REQUIREMENTS

The contributions for the next Bioethical Voices newsletter must be forwarded to the Editorial Board before 15 September 2017. They should to be written in good English and in Word Format, with some photos (where possible) and their contents should be of international interests. Each author is personally responsible for the contents and the language of his/her own contribution. Contributions must be signed.

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Chair Holder's Message, Editorial, Bioethics in the World, Bioethics VIPs and Institutions, About Legislation and Judgments, Bioethics and Disability, Education, Youth Bioethics Education, Research, Publications, About Units, Focus on Units, World Bioethics Day, Events, Past and Future Chair's Conference, Editorial Board Announcements. The structure of the Newsletter is still in progress.

AIM OF SECTIONS

Bioethics in the world (300 words max.): description of a concept /idea and its interpretation/ application in the different geographical contexts or a news.

About legislation and judgments (300 words max.): news from Law associations, Court decisions, developments in national or international legislations

Education (max 300 words): announcements of creation of working group or networks, list and a short description of courses, seminars, workshops (including the target, the dates and organizers), trainings, university programs.

Research: ongoing research projects: title, authors and short description.

Publications: title, authors, year of publication.

International events (no national events); title, date, place and short description.

The structure is to be decided, based on the contributions we receive (evolving).

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