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EPISTEMOLOGICAL FOUNDATIONS AND CRITICAL THEORIZATION OF EMERGING HUMAN RIGHTS

Fundamentos epistemológicos y teorización crítica de los derechos humanos emergentes

ABSTRACT

The article examines the profound transformations generated by digitalization, neurotechnology, algorithmic governance, and ecological destabilization, arguing that these changes expose novel forms of vulnerability that classical human rights frameworks cannot fully address. The central problem identified is the absence of an epistemological system capable of determining when a new moral or technological claim legitimately qualifies as a human right, a gap that has led to conceptual inflation, redundancy, and normative fragmentation. The purpose of the study is to construct a rigorous epistemological foundation that clarifies the criteria, limits, and justificatory requirements for recognizing emerging rights in contemporary constitutional and international law. Methodologically, the article develops a conceptual and analytical reconstruction grounded in human rights theory, legal philosophy, and critical constitutionalism. It reconstructs the genealogy of emerging rights, analyzes new ontologies of vulnerability, and systematizes epistemic criteria identified throughout the scholarly literature. This is complemented by an examination of technological and ecological transformations, drawing from interdisciplinary fields such as neuroethics, digital governance, and environmental theory. The study finds that emerging rights are justified only when

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technological or ecological changes generate qualitatively new harms that cannot be subsumed under existing rights categories. Examples identified include mental privacy, cognitive liberty, algorithmic explainability, and rights of nature each addressing vulnerabilities that classical rights frameworks cannot protect without conceptual distortion. The results also show that emerging rights require a reconfiguration of duty-bearers, extending obligations beyond the state to corporations, artificial intelligence developers, neurotechnology producers, and ecological actors. The article concludes that an integrated epistemology is indispensable for ensuring that rights recognition remains principled and responsive to twenty-first-century transformations. By offering a disciplined model for determining when new rights are necessary, the study strengthens legal coherence, protects human dignity, and prevents normative inflation.

Keywords: emerging rights; epistemology; human dignity; technological transformation; vulnerability.

RESUMEN

En el artículo se examinan las profundas transformaciones generadas por la digitalización, la neurotecnología, la gobernanza algorítmica y la desestabilización ecológica, argumentando que estos cambios exponen nuevas formas de vulnerabilidad que los marcos clásicos de derechos humanos no pueden abordar plenamente. El problema central identificado es la ausencia de un sistema epistemológico capaz de determinar cuándo una nueva reivindicación moral o tecnológica, se califica legítimamente como un derecho humano, una brecha que ha llevado a la inflación conceptual, la redundancia y la fragmentación normativa. El propósito del estudio es construir una base epistemológica rigurosa que aclare los criterios, límites y requisitos justificativos para el reconocimiento de los derechos emergentes en el derecho constitucional e internacional contemporáneo. Metodológicamente, en el artículo se desarrolla una reconstrucción conceptual y analítica basada en la teoría de los derechos humanos, la filosofía del derecho y el constitucionalismo crítico. Se reconstruye la genealogía de los derechos emergentes, se analizan nuevas ontologías de vulnerabilidad y se sistematizan criterios epistémicos identificados en la literatura académica. Esto se complementa con un examen de las transformaciones tecnológicas y ecológicas, a partir de campos interdisciplinarios como la neuroética, la gobernanza digital y la teoría ambiental.

El estudio concluye que los derechos emergentes se justifican solo cuando los cambios tecnológicos o ecológicos generan daños cualitativamente nuevos que no pueden subsumirse en las categorías de derechos existentes. Los ejemplos identificados incluyen la privacidad mental, la libertad cognitiva, la explicabilidad algorítmica y los derechos de la naturaleza, cada uno de los cuales aborda vulnerabilidades que los marcos clásicos de derechos no pueden proteger sin distorsión conceptual. Los resultados también muestran que los derechos emergentes requieren una reconfiguración de los titulares de deberes, extendiendo las obligaciones más allá del Estado a las corporaciones, los desarrolladores de inteligencia artificial, los productores de neurotecnología y los actores ecológicos. El artículo concluye que una epistemología integrada es indispensable para garantizar que el reconocimiento de los derechos se mantenga basado en principios y responda a las transformaciones del siglo XXI. Al ofrecer un modelo disciplinado para determinar cuándo son necesarios nuevos derechos, el estudio fortalece la coherencia jurídica, protege la dignidad humana y previene la inflación normativa.

Palabras clave: derechos emergentes; dignidad humana; epistemología; transformación tecnológica; vulnerabilidad.

I. INTRODUCTION

The acceleration of technological, social, and ecological transformations has generated an unprecedented reconfiguration of the conditions under which human dignity is expressed, threatened, and protected. In this context, emerging human rights have become a central subject of theoretical and normative debate. They reflect a tension between the need to respond to new forms of vulnerability and the imperative to preserve the coherence and legitimacy of the human rights system. As Floridi warns, "the infosphere has reshaped the very conditions under which human beings construct their autonomy and identity" (2016, p. 90), introducing risks and dependencies that classical constitutional frameworks did not foresee. At the same time, Andorno emphasizes that "technological evolution has outpaced the conventional logic of human rights, revealing blind spots in their protective capacity" (2022, p. 4).

This tension situates the debate within an explicitly epistemological field. Emerging rights are not merely political claims or moral aspirations; rather, they raise the more fundamental question of what counts as a human right, what kinds of justification are necessary for its recognition, and how legal systems determine the boundaries of normative protection. Nino underscores this when he argues that "the legitimacy of human rights derives from moral reasoning capable of universal justification" (2007, p. 44), implying that any expansion of rights must be grounded in epistemic rigor rather than rhetorical enthusiasm. Similarly, Peces-Barba cautions that "the uncontrolled proliferation of

rights weakens their normative force and risks converting them into mere political slogans" (1993, p. 27).

Yet, this epistemic caution must be balanced against the reality that societal change continuously produces new types of harm. The development of artificial intelligence, biometric surveillance, neuro-technological interfaces, and pervasive informational environments has reshaped the architectures of power and vulnerability. Floridi notes that "the agent-environment distinction collapses in a digital world, as individuals are continuously shaped by data flows" (2016, p. 112), suggesting that autonomy and privacy as traditionally understood have become insufficient. In parallel, ecological degradation and climate collapse reveal systemic harms that destabilize long-established rights categories. Andorno describes this dynamic by stating that "ecological and technological disruptions generate moral claims not foreseen by the existing human rights framework" (2022, p. 19).

These transformations demand a renewal of the conceptual and epistemological tools through which rights are defined. They reveal the need to address new vulnerabilities that threaten the integrity of persons in dimensions —digital, cognitive, ecological, algorithmic— that were not part of earlier constitutional imaginaries. Emerging rights therefore constitute an attempt to articulate normative pro-

tections corresponding to unprecedented risks: loss of mental privacy, manipulation of neurocognitive activity, algorithmic discrimination, automated decision-making without transparency, data extraction at planetary scale, digital identity distortion, and ecological collapse.

The absence of a rigorous epistemological framework, however, creates significant risks. Without clear criteria for determining when a new claim qualifies as a human right, legal systems become susceptible to conceptual inflation, political opportunism, and normative incoherence. As Atienza argues, "conceptual clarity is indispensable in the domain of rights, because ambiguity generates interpretive chaos and undermines legal certainty" (2019, p. 101). This is particularly true in the context of emerging rights, where the novelty of the underlying phenomena can obscure the need for analytical precision. The challenge lies in distinguishing between three categories: (1) genuine emerging rights that protect new goods or respond to new harms; (2) new manifestations or specifications of rights already recognized; and (3) political interests lacking the density required for juridical elevation.

Furthermore, contemporary constitutionalism —especially in Latin America— faces the dual pressure of responding to novel forms of exclusion while preventing doctrinal fragmentation. The Inter-Ameri-

can Human Rights System has increasingly adopted evolutionary interpretations that expand the scope of rights protection, yet such expansions must be grounded in epistemic justification to avoid arbitrary or inconsistent jurisprudence. Nino's observation that "human rights must be justified by reasons accessible to all agents under conditions of moral equality" (2007, p. 47) becomes especially urgent in this context.

Thus, the core purpose of this article is to construct a comprehensive epistemological foundation for emerging human rights. This involves:

I. Reconstructing their genealogy to understand the historical forces driving the recognition of new rights.

II. Identifying the epistemic conditions that justify the emergence of rights universalizability, normative autonomy, justiciability, conceptual necessity, and systemic coherence.

III. Distinguishing authentic rights from derivative or redundant claims.

IV. Proposing a methodological matrix to evaluate whether a novel claim possesses the epistemic rigor necessary to be recognized as a human right.

Such a framework is indispensable not only for theoretical clarity, but also for constitutional coherence and institutional legitimacy. Without it, the human rights discourse risks becoming an ever-expanding catalog vulnerable to political manipulation. Conversely, a robust epistemological structure strengthens constitutional democracy, refines judicial reasoning, and ensures that new rights reflect genuine transformations in the human condition.

II. GENEALOGY OF EMERGING HUMAN RIGHTS

The genealogy of emerging human rights is neither accidental nor improvisational; rather, it is the result of a deep historical, philosophical, and epistemological evolution through which societies reinterpret the meaning of human dignity and recalibrate the normative architecture that sustains the protection of the person. This long-term evolution reveals that emerging rights are not ephemeral innovations or political conveniences, but instead constitute the most recent stage in a centuries-long process of responding to novel threats to human agency, moral equality, and structural vulnerability. Understanding this genealogy is crucial because emerging rights cannot be conceptualized as isolated normative novelties; their emergence is embedded within broader historical patterns of rights expansion that accompany transformations in social life, technological power, and political authority. As Nino insightfully explains, "the history of human rights is the history of the progressive recognition of the moral

capacities inherent to all persons" (2007, p. 51), highlighting that the expansion of rights correlates with humanity's increasing awareness of the intrinsic dignity and rational agency shared by all human beings.

Legal history demonstrates that each major transformation in rights recognition corresponds to societal changes that expose previously invisible harms. Peces-Barba articulates this dynamic when he states that "rights emerge when new contradictions in social life reveal the insufficiency of existing moral and legal frameworks" (1993, p. 63), underscoring that rights develop in direct response to structural vulnerabilities that older conceptions of dignity could not fully anticipate. In this sense, emerging rights should be understood as normative adaptations to the unprecedented conditions of the twenty-first century conditions shaped by digitalization, cognitive technologies, ecological collapse, and algorithmic environments.

These transformations disrupt established boundaries of autonomy, privacy, and identity, revealing the limitations of classical rights in safeguarding the full spectrum of human experience. As Floridi observes in his influential philosophy of information, "the digital revolution has not merely modified the human environment; it has redefined the ontological conditions under which persons exist" (2016, p. 109). This ontological shift compels legal systems to reconsider what must be protected, why, and through which conceptual tools.

Thus, emerging human rights are the product of a genealogical trajectory that traces back to foundational moral insights regarding human dignity, but expands them in light of new empirical realities. Their genealogy demonstrates that rights evolve not because societies become normatively more ambitious, but because technological and social transformations reveal novel forms of harm that demand new juridical articulations. The emergence of rights is therefore an epistemic process one requiring societies to reinterpret the meaning of dignity under changing conditions and to articulate new normative frameworks capable of protecting morally relevant aspects of the human condition that earlier eras could not have foreseen.

1. The rise of collective and solidarity rights
The second half of the twentieth century marked a decisive turning point in the evolution of human rights, characterized by the emergence and consolidation of collective or solidarity rights. This development represented a profound normative expansion beyond the traditional individualistic paradigm of rights, reflecting the growing recognition that many contemporary harms are systemic, structural, and global

in nature. Phenomena such as accelerated environmental degradation, cultural homogenization driven by economic globalization, and persistent geopolitical inequalities revealed that individual rights were insufficient to address new forms of vulnerability that transcend personal autonomy. As a result, legal and philosophical discourse began to conceptualize rights that operate at the collective level, protecting groups, communities, and even ecological systems against harms that no individual right, on its own, could remedy.

Collective and solidarity rights thus emerged to capture the moral and legal implications of interdependence in a rapidly globalizing world. Rights such as the right to development, the right to a healthy environment, the collective rights of indigenous peoples, and cultural rights illustrate a growing consensus that justice cannot be reduced to an atomistic vision of the person. As Sengupta explains in his seminal work on development rights, "the right to development is intrinsically collective, both in its goals and in the means required for its realization" (2002, p. 859), highlighting the impossibility of addressing structural economic inequalities through traditional individual rights alone.

This normative expansion was not merely pragmatic; it reflected a deeper epistemic transformation. Legal systems began to acknowledge that harms often occur at scales and through mechanisms that defy individualistic categories. Environmental collapse, forced cultural assimilation, loss of linguistic heritage, and systemic poverty operate across generations and communities, requiring conceptual frameworks capable of addressing diffuse and cumulative harms. The genealogy of emerging rights must therefore incorporate this shift toward understanding vulnerability as relational, collective, and historically embedded. As Shelton notes, "solidarity rights arise from collective interests that reflect the shared fate of humanity in confronting global challenges" (2010, p. 547), thereby grounding these rights in a universal moral interdependence.

This evolution in rights theory also revealed the epistemic limitations of classical liberal models. Individualistic premises —rooted in Enlightenment notions of personal autonomy—proved inadequate for conceptualizing threats to cultural survival, environmental stability, or intergenerational justice. Collective rights thus filled an analytical void by recognizing that many harms cannot be disaggregated into individual claims. This realization prompted legal scholars to argue for a recalibration of juridical categories. As Atienza succinctly affirms, "legal categories must adapt to the complexity of moral and social reality if they wish to remain normatively relevant" (2019, p. 117), emphasizing that rights must evolve in

response to structural transformations in social life.

Moreover, the rise of international environmental law, the acknowledgment of indigenous self-determination, and the global recognition of cultural rights underscored that contemporary threats often target the integrity of collective identities rather than isolated individuals. For instance, the right to a healthy environment emerged in part because environmental harms are inherently collective: polluted air, climate change, and biodiversity loss affect entire communities simultaneously and cannot be meaningfully addressed through exclusively individual legal remedies. As Boyle asserts, "environmental rights reflect the shared and indivisible nature of ecological goods, which cannot be reduced to individualized entitlements" (2012, p. 612).

In this sense, the rise of collective and solidarity rights represents both a continuation of and a departure from earlier rights paradigms. It continues the historical trajectory of expanding protections in response to new vulnerabilities, but departs from the traditional focus on the individual by recognizing that contemporary threats often manifest at collective scales. These rights deepen the epistemological understanding that dignity is not only an individual attribute, but also a relational and communal one, shaped by context, history, and environment.

2. The twenty-first century: digitalization, datafication, and the crisis of traditional rights

The arrival of the twenty-first century inaugurated a transformative epoch in which the digitalization of social life, the datafication of human activity, and the normalization of algorithmic governance profoundly destabilized the conceptual coherence of the traditional human rights framework. These processes have not merely introduced new technologies; they have restructured the ontological conditions under which human beings interact, make decisions, form identities, and exercise autonomy. The shift from analog to digital environments has altered the nature of vulnerability itself, revealing structural harms that classical rights were never designed to address.

Digitalization has produced an unprecedented social environment in which informational flows become inseparable from personal identity. Floridi characterizes this transformation in emphatic terms, noting that "the digital revolution has not simply transformed our tools; it has changed our very ontology as informational agents" (2016, p. 94). In this sense, individuals are no longer merely subjects who use technology; they are continually shaped by systems that monitor, classify, and predict their behavior. Traditional rights such as privacy, autonomy, and freedom of expression presupposed

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a world where human actions remained largely outside automated surveillance architectures. That world has effectively disappeared.

Datafication has intensified this ontological shift. Through ubiquitous data extraction, individuals become sources of continuous informational production, often without awareness or meaningful consent. As Zuboff argues in her groundbreaking analysis of digital capitalism, "surveillance has become the default condition of the digital age, producing a one-way mirror of power in which individuals are rendered knowable while the systems that shape them remain opaque" (2019, p. 201). This fundamental asymmetry erodes the protective capacity of rights premised on transparency, agency, and informed choice.

Algorithmic governance further compounds this crisis. Automated decision-making systems increasingly determine access to credit, employment, healthcare, education, and even criminal justice outcomes. These systems operate through opaque computational processes that are often inscrutable even to their designers. Andorno explains that "algorithmic decision-making introduces forms of discrimination and harm that traditional legal categories struggle to conceptualize, let alone regulate" (2022, p. 41). The opacity, scale, and speed of algorithmic systems challenge foundational assumptions of accountability, due process, and equality before the law.

The inadequacy of traditional rights in this landscape becomes evident when examining how digital systems reconfigure core freedoms. Classical rights presume human-centered decision-making, control over personal information, and a clear separation between public and private spheres. Digital ecosystems dissolve these assumptions by integrating surveillance, profiling, and automated intervention into the very fabric of everyday life. This is why scholars increasingly argue that the digital age exposes "structural privacy deficits," "algorithmic vulnerabilities," and "information asymmetries" that cannot be fully addressed through conventional rights.

Furthermore, the global architecture of digital power complicates the application of traditional rights, which were designed primarily to constrain state actors. Corporate control over personal data, online identities, and algorithmic systems introduces a new locus of power that classical rights frameworks do not adequately confront. The digital environment reveals that rights must now address hybrid forms of domination, where public and private entities jointly shape the conditions of human agency.

Digitalization and datafication also have profound consequences for democratic participation, public deliberation,

and informational autonomy. Manipulative design practices, targeted advertising, and the algorithmic amplification of misinformation undermine the capacity of individuals to form independent judgments. As Sunstein observes, "algorithmic filtering fragments the public sphere and narrows the range of information citizens encounter, weakening the epistemic foundations of democracy" (2017, p. 138). This erosion of informational autonomy challenges the viability of traditional rights related to expression, association, and political participation.

Collectively, these developments signal a crisis of traditional human rights one rooted not in the failure of rights themselves, but in the mismatch between classical legal categories and the new architecture of digital power. Emerging human rights such as digital identity rights, data protection rights, algorithmic fairness rights, and rights against automated decision-making arise precisely to bridge this conceptual gap. They seek to protect dimensions of human dignity that classical frameworks could not anticipate because the underlying threats did not yet exist.

3. Neurotechnology and the emergence of cognitive vulnerability

The emergence of neurotechnologies capable of recording, interpreting, and even modifying neural activity constitutes one of the most profound challenges to the traditional architecture of human rights. Unlike previous technological revolutions the neurotechnological revolution directly targets the biological substrate of human cognition, blurring the boundaries between thought and technological intervention. This unprecedented capacity to access mental processes reveals a dimension of vulnerability that existing rights frameworks were never designed to confront. Classical rights such as privacy, bodily integrity, freedom of thought, and personal autonomy presupposed the mind as an inherently private domain, inviolable, and inaccessible to external mechanisms. Neurotechnologies destabilize this assumption by making the mind technologically penetrable.

Neurotechnology refers to devices and systems that can decode or influence brain activity. These technologies challenge foundational legal and philosophical premises by rendering cognitive states measurable, manipulable, and commercially exploitable. Yuste and Goering, two leading scholars in neuroethics, encapsulate this seismic shift when they warn that "for the first time in human history, technologies exist that can both read and alter the neural underpinnings of thought itself" (2017, p. 556). This development marks a radical ontological rupture: neural data is now potentially accessible to governments, corporations, and private actors.

This capacity introduces a new category of harm: cognitive vulnerability. Cognitive vulnerability arises when mental privacy, cognitive liberty, and neural identity are exposed to external influence or surveillance. Traditional rights regimes assume that the body may be monitored, but the mind remains fundamentally private. Neurotechnologies undermine this assumption by creating conditions under which thoughts, intentions, emotions, and cognitive states can be inferred or manipulated through advanced computational models. Ienca and Andorno describe this emerging risk with striking clarity, stating that "the loss of mental privacy would constitute a violation more profound than any known form of informational intrusion" (2017, p. 10). Their argument underscores the epistemic magnitude of neurotechnological harm: it targets the core of personal identity.

Furthermore, neurotechnologies expose a gap in classical conceptions of autonomy. Autonomy traditionally presumes that individuals exercise self-determination over their thoughts, decisions, and internal deliberations. However, neurotechnological devices may alter, enhance, or even suppress neural activity, raising questions about the authenticity of agency. If a person's neural states are influenced by external devices, what becomes of autonomy as a legal and moral category? Farah articulates this dilemma, noting that "neurotechnology blurs the line between voluntary mental activity and technologically induced cognition" (2012, p. 574), revealing the inadequacy of classical rights categories to address altered or hybrid forms of agency.

The rise of cognitive vulnerability also intersects with concerns about discrimination, manipulation, and inequality. Enhanced neurotechnologies may create new forms of cognitive stratification, granting advantages to those with access to neural enhancements while marginalizing others. This dimension of inequality is not anticipated by conventional rights, which assume equal cognitive baselines among individuals. Moreover, the potential for coercion adds another layer of risk. The use of neurotechnologies in criminal justice, national security, or workplace settings could lead to unprecedented intrusions into mental states, compelling individuals to reveal cognitive information without consent.

These developments have spurred calls for a new generation of rights designed specifically to protect mental integrity. Neuro-rights seek to safeguard:

a) mental privacy,
b) cognitive liberty,
c) psychological continuity,
d) neural data protection, and
e) the right to personal identity free from technological alteration.

Chile's 2021 constitutional reform is often cited as a pioneering example, explicitly recognizing the need to protect mental integrity and neural data from exploitation. This milestone underscores that neurotechnology is not merely a scientific frontier, but a constitutional and human rights challenge.

The epistemological implications of neurotechnology are profound. Traditional rights assumed the mind as a pre-legal, pre-technological given. Today, the mind is becoming a site of technological intervention, subject to external recording, manipulation, and commodification. This transformation reveals that the genealogy of emerging human rights must include cognitive vulnerability as a new dimension of human fragility requiring legal protection.

4. The Anthropocene and planetary vulnerability

The emergence of the Anthropocene represents one of the most profound challenges to the conceptual foundations of human rights. Unlike previous historical transformations, which modified social or technological structures, the Anthropocene alters the biophysical conditions that make human life possible. Climate disruption, biodiversity loss, ocean acidification, extreme weather events, and collapsing ecological systems reveal a level of planetary vulnerability that destabilizes traditional rights frameworks premised on stable environmental conditions. As Crutzen, who first popularized the term, declared, "human activities have grown so pervasive and profound that they rival the great forces of nature" (2002, p. 23), indicating that environmental transformations today are anthropogenic, structural, and irreversible on human timescales.

Traditional human rights were conceived under the assumption that environmental conditions were relatively stable, and that nature functioned as a neutral backdrop to human life. Yet the Anthropocene exposes the fragility of this assumption: the environment is no longer a static context, but an active site of risk, vulnerability, and systemic collapse. This ontological shift reveals that rights such as health, life, food, water, housing, and development depend on ecological stability. As Rockström *et al.* warn, "crossing planetary boundaries may trigger irreversible environmental changes that undermine the very basis of human well-being" (2009, p. 472). Their framework of planetary boundaries demonstrates that modern societies are operating beyond safe ecological limits, generating cascading harms that exceed the capacity of traditional rights to address.

The Anthropocene also disrupts the anthropocentric foundations of classical human rights. For most of the modern era, legal systems assumed that humans occu-

pied a privileged position relative to the natural world, with nature regarded as an object of use, property, or resource management. However, ecological collapse reveals that human survival is inseparable from the health of ecosystems. This interdependence challenges anthropocentric doctrines and motivates new legal paradigms that recognize intrinsic ecological rights. As Cullinan, one of the foremost scholars of Earth jurisprudence, explains, "the rights of nature shift the legal worldview from anthropocentrism to an ecocentric understanding that places ecological integrity at the center of normative life" (2011, p. 89). The Anthropocene therefore induces a philosophical realignment: human rights can no longer be conceptualized independently of ecological realities.

Moreover, the crisis generated by the Anthropocene introduces a new typology of vulnerability: planetary vulnerability. Unlike individual or collective vulnerabilities, planetary vulnerability concerns the fragility of the Earth system itself. Planetary vulnerability is systemic, non-linear, and transgenerational; its harms unfold over decades or centuries and impact populations unequally. Legal frameworks based solely on individual claims cannot capture the magnitude, distribution, and temporality of these harms. Environmental degradation disproportionately affects indigenous peoples, coastal populations, children, and future generations groups

that cannot always be adequately represented through existing rights structures.

This recognition has led to the emergence of environmental and ecological rights as forms of solidarity rights that respond to the collective and intergenerational nature of ecological harms. The right to a healthy environment, now recognized in over one hundred constitutions worldwide, reflects this shift. It acknowledges that environmental degradation threatens not only physical health, but also cultural survival, dignity, and identity. As Boyd argues, "environmental rights provide a bridge between ecological sustainability and human dignity, recognizing that a safe environment is a prerequisite for the enjoyment of all other rights" (2012, p. 44). The growing judicial movement to recognize the rights of nature further indicates that legal systems are adapting to the ontological demands of the Anthropocene.

The Anthropocene also demands a reconceptualization of responsibility. Traditional legal models assume clear causal chains, identifiable perpetrators, and manageable temporal horizons. Climate change and ecological collapse defy these assumptions: they are caused by millions of diffuse actions, produce harms across centuries, and operate through complex feedback loops. This temporal and causal complexity challenges doctrines such as state responsibility, standing, causation,

and reparations. As a result, emerging rights related to climate justice, intergenerational equity, and ecological integrity seek to fill a conceptual void by offering normative tools suited to the planetary scale of contemporary risks.

Furthermore, the Anthropocene reveals the limitations of existing governance structures. National legal systems are ill-equipped to manage global phenomena like atmospheric destabilization, ocean warming, and species extinction. Emerging environmental rights therefore articulate the need for transnational, ecological, and intergenerational justice frameworks. This includes the growing recognition of climate refugees, expanding obligations under international environmental law, and innovative judicial doctrines that re-interpret constitutional rights in light of planetary instability.

5. Continuity and rupture: the dialectic of emerging rights

The emergence of new human rights in the twenty-first century reveals a complex dialectic of continuity and rupture a dynamic interplay in which the logic of historical rights expansion persists even as unprecedented technological, ecological, and social transformations require conceptual innovations that break with foundational assumptions of earlier rights paradigms. Understanding this dialectic is essential for articulating an epistemological framework that both honors the historical lineage of rights and responds to the radically new forms of vulnerability that characterize contemporary life (Table 1).

6. Epistemological lessons from the genealogy

The genealogy of emerging human rights, when examined through a broad historical, philosophical, and technological lens, reveals a set of profound epistemological lessons that reshape our understanding of how rights are conceptualized, justified, and incorporated into legal systems. These lessons are indispensable for constructing a rigorous epistemic framework capable of distinguishing genuine emerging rights from rhetorical claims or policy aspirations. At its core, the genealogy demonstrates that emerging rights do not arise spontaneously; they emerge through processes of moral reasoning, social transformation, and conceptual innovation that respond to newly discovered forms of vulnerability. As Nino states, "the legitimacy of human rights depends on the soundness of the justificatory practices that support them" (2007, p. 44), emphasizing that the justification of rights must be continuous, rational, and universally accessible.

To synthesize the epistemological insights derived from the genealogy and conceptual analysis of emerging human rights, the following table distills six foundational lessons that structure the recog-

Table 1.

Analytical dimension	Conceptual definition	Core characteristics	Representative scholarly support	Implications for emerging human rights
Continuity: The expansionary logic of human dignity	Continuity refers to the historical expansion of human rights grounded in the enduring moral principle of human dignity, which has justified the progressive recognition of new rights across different eras.	• Rights evolve in response to new forms of exclusion and domination. • Expansion remains anchored in dignity as the normative core. • Human rights instruments exhibit interpretive flexibility and adaptability. • Vulnerabilities are recognized as extensions of historically known harms. • Institutional evolution parallels conceptual evolution.	Nino: "the evolution of rights is rooted in the deepening of our understanding of the demands of human dignity under changing historical conditions" (2007, p. 54). Peces-Barba: "the open texture of human rights enables their adaptation to new moral and social realities without losing their normative foundation" (1993, p. 72).	• Emerging rights follow a recognizable historical pattern. • New rights appear as deepened articulations of dignity. • The human rights system maintains internal coherence by expanding within established normative boundaries. • Supports expansion without conceptual disruption.
Rupture: Novel Ontologies and new structures of vulnerability	Rupture refers to radical conceptual breaks produced by transformative technological and ecological changes that render classical rights categories partially obsolete.	• New vulnerabilities fundamentally alter assumptions about personhood, autonomy, and agency. • Digitalization and algorithmic governance challenge transparency and equality frameworks. • Neurotechnologies create unprecedented cognitive and mental risks. • Anthropocene-driven ecological collapse destabilizes the conditions enabling human rights. • Existing rights cannot fully address these harms.	Floridi: "the digital revolution has forced us to rethink foundational categories about what it means to be a person, an agent, and a subject of rights" (2016, p. 102). Andorno: "emerging technologies generate normative challenges that cannot be adequately addressed by existing human rights, because they target dimensions of human life previously beyond the reach of regulation" (2022, p. 39).	• Necessitates conceptual innovation beyond adaptation. • Requires recognition of emerging rights (*e.g.*, mental privacy, cognitive liberty, algorithmic explainability, rights of nature). • Signals the obsolescence of purely anthropocentric and individualistic rights frameworks. • Forces epistemic redefinition of dignity, autonomy, and vulnerability.
Dialectical synthesis: Integration of innovation and tradition	A normative synthesis that reconciles continuity and rupture by preserving foundational principles of dignity while incorporating conceptual innovations necessary to address twenty-first-century vulnerabilities.	• Merges universality with contextual adaptation. • Prevents conceptual inflation by grounding innovation in human dignity. • Prevents reductionism by acknowledging genuinely new harms. • Recognizes rights as evolving through "dialectical evolution." • Ensures systemic coherence while enabling normative expansion.	Shelton: "the capacity of the human rights project to renew itself in response to global phenomena that reshape the contours of vulnerability" (2010, p. 552).	• Provides an epistemological foundation for emerging rights. • Ensures that new rights strengthen, rather than fragment, the human rights system. • Maintains normative continuity while enabling responsive transformation. • Establishes emerging rights as both faithful to tradition and conceptually innovative.

Reference: Table of my own creation.

nition, justification, and evolution of new rights in contemporary law. These lessons encapsulate the core principles that differentiate genuine emerging rights from mere contextual extensions of existing ones, highlighting how transformations in technology, cognition, ecological conditions, and global governance fundamentally reshape the human condition. Each lesson articulates a specific epistemic requirement demonstrating that the emergence of new rights is not arbitrary, but grounded in rigorous normative reasoning. This synthesis provides a concep-

tual roadmap for evaluating future rights claims in an era marked by unprecedented forms of harm and vulnerability (Table 2).

III. EPISTEMOLOGY OF EMERGING HUMAN RIGHTS

The epistemological foundation of emerging human rights begins with a fundamental and unavoidable question: What, precisely, qualifies a normative claim to be recognized as a human right? This inquiry goes to the heart of human rights theory. It is neither semantic nor rhetor-

Table 2

Lesson	Core insight	Analytical implications for emerging rights	Supporting source
Lesson 1: Rights emerge from the identification of new vulnerabilities	Rights arise when societies detect new structural vulnerabilities that classical rights frameworks cannot address, especially those produced by digitalization, neurotechnology, and planetary destabilization.	Emerging rights are not products of moral inflation, but responses to empirical transformations in the human condition. New technologies reveal domains of harm that must be normatively protected.	Andorno: "New technologies generate novel forms of harm that exceed the protective capacity of traditional human rights" (2022, p. 41).
Lesson 2: Emerging rights require conceptual autonomy	New rights must identify a distinct normative good not captured by existing rights categories. Without conceptual autonomy, proposed rights become redundant.	Digital identity, neural integrity, informational self-determination, and ecological stability represent autonomous goods requiring new conceptual categories beyond privacy, autonomy, or health.	Floridi: "The digital environment exposes informational harms that demand new conceptual tools and cannot be understood through traditional categories alone" (2016, p. 112).
Lesson 3: Epistemology requires distinguishing rights from interests	Not every ethically desirable goal constitutes a human right. Rights require universality, necessity, justiciability, and normative urgency.	Many political aspirations (e.g., prosperity, digital inclusion, technological innovation) remain interests, not rights, because they lack justificatory rigor and universalizability.	Atienza: "Legal concepts must maintain analytic precision to avoid dissolving into indeterminate moral claims" (2019, p. 101).
Lesson 4: Emerging rights must be universally justifiable	Rights must be grounded in reasons that any person could accept under conditions of moral equality. Vulnerabilities must be structurally generalizable.	Vulnerabilities emerging from digital, cognitive, or planetary conditions affect the structural conditions of human life and therefore support universal justification.	Nino (2007). Principle of universal justification in human rights theory.
Lesson 5: The need for systemic coherence	Emerging rights must integrate coherently into constitutional and international human rights frameworks without undermining foundational principles.	Rights such as mental privacy or environmental rights reinforce, rather than displace, principles of dignity, equality, autonomy, and democratic legitimacy.	Donnelly: "The overextension of rights discourse obscures the difference between essential protections and desirable social goals" (2013, p. 57).
Lesson 6: The epistemic structure of rights is dynamic, not static	Human rights evolve in response to changes in knowledge, power, technology, and social organization.	Emerging rights extend the universality of human rights to previously unregulated domains, demonstrating that universality is compatible with epistemic dynamism.	Shelton: "Human rights are capable of renewal as global changes reshape the contours of vulnerability and justice" (2010, p. 552).

Reference: Table of my own creation.

ical, because the invocation of rights carries immense normative and legal weight. Instead, it concerns the conceptual architecture through which rights are identified, justified, delimited, and incorporated within national and international legal systems. As such, determining which claims deserve recognition as human rights requires a rigorous analysis of their justificatory structure, moral grounding, and epistemic validity.

Human rights are not merely declarations of moral preference nor instruments of political convenience. They are not synonymous with aspirations, policy objectives, or social ideals. They are normative constructs of the highest order claims that impose correlative duties, generate institutional obligations, and articulate essential conditions for the flourishing of human dignity. Their legitimacy depends on their capacity to withstand critical scrutiny across cultural, philosophical, and in-

stitutional contexts. As Nino emphatically asserts, "the legitimacy of human rights is grounded in moral reasoning capable of universal justification" (2007, p. 44), underscoring that rights must be defensible through arguments accessible to all individuals exercising moral agency.

This epistemic requirement reflects more than a methodological standard; it expresses the foundational ethical principle of human equality. If human rights are to be universal, then their justification must not rely on parochial values, cultural contingencies, or ideological biases. Beitz reinforces this point when he writes that "a human right must be justifiable to all persons as members of a global moral community" (2009, p. 111). Thus, a claim may be morally appealing or politically popular yet still fail to meet the epistemic threshold required for recognition as a human right if it does not meet universalizable justification criteria.

Equally important is the distinction between rights and mere interests. Not every interest can generate the normative structure required for a human right. Rights impose duties; interests often do not. As Raz classically explains, "rights are grounds for duties; interests alone are not sufficient to generate obligations" (1984, p. 195). This distinction highlights that human rights cannot proliferate indefinitely without losing their normative clarity. If every desirable social condition were conceptualized as a human right, the term would lose its moral and legal force, resulting in what Donnelly calls "the inflation of rights discourse, which threatens to erode its authority by blurring its boundaries" (2013, p. 57).

Furthermore, an emerging right must demonstrate normative necessity a criterion requiring that the value or vulnerability it seeks to protect cannot be adequately safeguarded through existing rights. Nickel articulates this principle clearly: "human rights should not proliferate without clear proof that an existing right cannot serve the protective purpose" (2007, p. 72). Without establishing normative necessity, a proposed right risks redundancy and conceptual overlap, weakening the coherence of the human rights system.

Taken together, these insights reveal that the epistemic question, what counts as a human right?, functions as the first and most crucial gatekeeper for evaluating emerging human rights. Rights must satisfy standards of universality, normative necessity, conceptual autonomy, and justiciability. Emerging rights face a heightened epistemic burden because they respond to radically new conditions that challenge the assumptions of classical rights frameworks. As Floridi warns, "without conceptual discipline, the proliferation of new rights risks generating a fragmented and incoherent normative landscape" (2016, p. 118).

To understand emerging rights epistemologically, one must begin by recognizing that human rights are fundamentally epistemic constructs. They do not arise merely from political will, moral sentiment, or historical contingency. Rather, they are the product of structured reasoning, conceptual delimitation, and normative justification. This epistemic character means that the validity of a right depends not only on its moral appeal, but on the forms of knowledge, justificatory methods, and rational criteria that support it. As such, the emergence of a new right requires a coherent epistemic architecture, a theoretical scaffolding that explains why the claimed protection is necessary, universalizable, and normatively binding.

Human rights are epistemic constructs in at least three ways:

I. They rely on forms of knowledge about the human condition knowledge of vulnerability, agency, dignity, and the social or technological structures that threaten them. What counts as "harm," "autonomy," or "dignity" shifts as new empirical realities emerge, requiring rights theory to incorporate updated knowledge from fields such as cognitive science, information theory, environmental science, and artificial intelligence. As Tasioulas argues, "any credible theory of human rights must be grounded in an accurate understanding of the empirical conditions of human flourishing" (2020, p. 12). Emerging rights arise because our empirical understanding of what can harm or undermine human beings has dramatically expanded.

II. Human rights depend on modes of justification ways of reasoning that establish why a right is morally necessary. These justificatory modes include universal principles of dignity, theories of autonomy, democratic legitimacy, and empirical assessments of systemic vulnerability. The epistemic validity of a right therefore hinges on more than moral intuition; it requires arguments that meet criteria of coherence, necessity, and generalizable justification. Peces-Barba articulates this with precision, observing that "rights do not arise spontaneously; they require a rational structure that explains their necessity within the moral and legal order" (1993, p. 31). His statement identifies the core epistemic requirement: rights need rational grounding, not merely political demand.

III. Third, human rights are epistemic constructs because they depend on methods of conceptual delimitation criteria that define what a right protects, what its limits are, and how it relates to other rights. Without conceptual delimitation, rights risk becoming overly broad, indeterminate,

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or inconsistent. Mulligan emphasizes this point, noting that "the conceptual boundaries of rights must be carefully articulated, or else the discourse collapses into a collection of vague aspirations" (2019, p. 88). This methodological requirement becomes even more pressing for emerging rights, whose novelty increases the likelihood of conceptual confusion.

Emerging rights, therefore, require far greater epistemic scrutiny than well-established rights. Their novelty means they lack the historical sedimentation and jurisprudential development that protect classical rights from conceptual inflation. Emerging rights are more vulnerable to rhetorical misuse, political co-optation, or normative overextension precisely because they seek to protect goods that have not previously been conceptualized within rights frameworks. As Andorno notes, "the challenge with new rights lies not in identifying new interests, but in determining whether these interests meet the justificatory threshold required for human rights" (2022, p. 41).

This heightened scrutiny is indispensable for preventing the inflationary expansion of the rights catalogue. Conceptual inflation occurs when the term "human right" is applied indiscriminately to interests, preferences, or policy goals without sufficient epistemic justification.

Donnelly cautions that "the overextension of rights discourse blurs the distinction between fundamental protections and desirable social outcomes" (2013, p. 57). This risk is particularly acute in the digital, neurotechnological, and ecological domains, where rapid social changes produce a flood of new claims framed as rights. Without epistemic rigor, the discourse risks losing its normative clarity.

The epistemic nature of human rights also implies that the creation of emerging rights is not merely additive. It requires conceptual innovation: new terms, new distinctions, and new analytical categories must be developed to protect new dimensions of dignity. For example, the rise of neurotechnology demands new conceptual tools for distinguishing between mental privacy, neural data, and cognitive liberty none of which were conceivable in earlier rights systems. Similarly, algorithmic governance requires conceptual tools for fairness, explainability, and non-discrimination in automated systems. Floridi captures this epistemic innovation succinctly when he writes, "the digital environment produces informational harms that cannot be understood through traditional categories alone" (2016, p. 122).

In this light, emerging rights are epistemically transformative. They reshape the cognitive map of human rights, revealing that the system of rights is not static, but adaptive to new forms of knowledge,

vulnerability, and social organization. Therefore, acknowledging human rights as epistemic constructs is essential for understanding why emerging rights require rigorous justification and careful conceptualization. It is this epistemic grounding that ensures emerging rights are not merely novel claims, but legitimate extensions of the human rights project extensions capable of addressing the unprecedented challenges of the twenty-first century.

The epistemological question of what qualifies a claim as a human right requires identifying the criteria that distinguish genuine rights from other types of moral, political, or social claims. These criteria form the backbone of any defensible theory of emerging human rights because they prevent the indiscriminate proliferation of rights language and preserve the normative integrity of the human rights system. Recognition of a right must therefore be grounded in rigorous epistemic standards. These include universality, normative necessity, conceptual autonomy, justiciability, and systemic coherence. Together, these standards articulate the epistemic baseline against which emerging rights must be evaluated. Without satisfying them, a proposed claim may possess moral appeal or political popularity, but it lacks the justificatory structure required to be elevated to the status of a human right.

Universality is perhaps the most fundamental criterion. A human right must apply to all persons by virtue of their status as human beings, independent of cultural, social, or political variation. Universality reflects the moral equality of all persons and ensures that rights transcend local contexts. Beitz emphasizes this standard when he states, "a human right must be justifiable to all persons as members of a global moral community" (2009, p. 111). Emerging rights such as the right to mental privacy or algorithmic fairness must therefore identify vulnerabilities experienced across humanity even if their immediate manifestations differ geographically.

This universality requirement prevents the recognition of rights grounded solely in contingent preferences or culturally specific values. It ensures that emerging rights address structural conditions that affect all human beings under contemporary global conditions. Normative necessity requires that a proposed right protect a fundamental aspect of dignity that cannot be adequately safeguarded through existing rights. If an existing right already provides full protection, creating a new right is redundant and may weaken conceptual clarity. Nickel articulates this principle clearly: "human rights should not proliferate without clear demonstration that existing rights cannot serve the protective purpose" (2007, p. 72).

Emerging rights such as the right to neurocognitive integrity arise because classical rights cannot fully capture the harms introduced by new technologies. Normative necessity thus ensures that emerging rights fill conceptual and legal gaps rather than merely duplicating existing protections.

Conceptual autonomy requires that an emerging right identify a good or vulnerability qualitatively distinct from those already recognized. This criterion is essential for maintaining analytical precision. Without conceptual autonomy, rights discourse risks collapsing into rhetorical inflation. As Floridi notes in the context of digital transformation, "the informational environment introduces harms that cannot be reduced to classical categories such as privacy or autonomy" (2016, p. 122).

Thus, emerging rights must demonstrate that the vulnerabilities they address constitute distinct normative domains. Conceptual autonomy ensures that new rights correspond to genuinely novel problems, not minor variations of existing ones.

A human right must be capable of being adjudicated and enforced. Justiciability ensures that rights impose clear obligations on identifiable duty bearers and that violations can be remedied through legal mechanisms. Griffin underscores this when he writes, "rights must be shaped in a way that allows them to guide the assignment of duties and judicial decisions"

(2008, p. 38). Emerging rights must articulate actionable obligations:

1. The right to algorithmic transparency requires enforceable duties of explanation and audit.
2. The right to mental privacy requires obligations concerning neural data handling.
3. Environmental rights require enforceable limits on systemic ecological harm.

Coherence requires that emerging rights align with and strengthen the principles of constitutional and international human rights law. A proposed right must integrate harmoniously with established doctrines such as dignity, equality, democratic legitimacy, and proportionality. Shelton highlights this requirement, noting that "the expansion of rights must maintain coherence with the structure and aims of international human rights law" (2010, p. 548).

Systemic coherence ensures that emerging rights do not undermine established protections or generate contradictions within the legal order. Instead, they should enhance the system's ability to respond to new forms of vulnerability while preserving its conceptual stability. These five criteria form the epistemic baseline for evaluating emerging rights. Without meeting these standards, a proposed claim may be

morally compelling but insufficient for recognition as a human right.

Emerging rights differ fundamentally from traditional rights because they respond to new and unprecedented vulnerabilities generated by transformative developments in technology, ecology, and social organization. These vulnerabilities were unimaginable under the historical conditions in which classical human rights were forged. As a result, the justificatory framework required to legitimate emerging rights must be especially robust, systematic, and epistemically demanding. If new rights are recognized without sufficient theoretical grounding, the risk is not simply conceptual confusion, but the progressive weakening of the entire human rights architecture through uncontrolled proliferation.

The need for stronger epistemic justification stems, first, from the fact that emerging rights operate in domains where traditional conceptual categories are insufficient. Classical rights such as privacy, autonomy, equality, and bodily integrity were designed for a world without ubiquitous digital surveillance, neurotechnological manipulation, planetary destabilization, or algorithmic governance. These new contexts expose vulnerabilities that classical rights cannot fully capture. As Andorno emphasizes, "emerging technologies create forms of harm that were not foreseen by traditional human rights frameworks" (2022, p. 41), highlighting the necessity of constructing new rights that respond to new empirical realities.

Second, emerging rights require heightened justification because they have no established jurisprudence or historical grounding to stabilize their meaning. Traditional rights benefit from decades of legal interpretation, philosophical reflection, and institutional practice. Emerging rights lack this historical sedimentation. Their novelty makes them more susceptible to conceptual inflation, rhetorical misuse, and political instrumentalization. Atienza warns sharply against such risks, noting that "legal concepts must retain analytical precision if they are to serve as reliable guides for normative judgment" (2019, p. 101). In the absence of epistemic precision, conceptual novelty may conceal weak justification or mask interests that do not merit elevation to the status of a human right.

Third, emerging rights require stronger justification because they can transform institutional mandates and legal obligations in profound ways. Recognizing a new right imposes duties on states, corporations, and individuals, often requiring changes in legislation, governance, resource allocation, and judicial oversight. Without rigorous epistemic grounding, these obligations risk becoming arbitrary or inefficient. Tasioulas underscores this practical dimension by asserting that "the

recognition of a human right entails serious normative commitments that must be justified by appeal to fundamental principles rather than contingent political preferences" (2020, p. 19). Emerging rights therefore demand justificatory clarity precisely because their institutional implications are substantial.

Fourth, the justification for emerging rights must be strong enough to preserve the normative hierarchy of rights. When any claim or social aspiration is framed as a "right," the term loses its meaning and its critical force. Donnelly warns of this danger, arguing that "the overextension of rights discourse threatens to erode its moral authority by obscuring the difference between fundamental protections and desirable social goals" (2013, p. 57). This erosion is particularly acute in the context of emerging rights because their novelty may create the illusion that every new challenge warrants a new right. Epistemology functions as a barrier against this inflationary trend, ensuring that only claims meeting the highest justificatory standards receive rights recognition.

Fifth, the unprecedented nature of contemporary threats demands a more sophisticated understanding of vulnerability. Digital vulnerability differs structurally from physical vulnerability; cognitive vulnerability differs from bodily vulnerability; planetary vulnerability differs from ecological harm conceived as localized or reversible. Without precise epistemic analysis, legal systems cannot determine whether a new form of vulnerability warrants recognition as a human right or whether it should be addressed through regulatory mechanisms, policy interventions, or ethical guidelines instead. Floridi captures this transformation when he writes: "the digital revolution forces us to rethink foundational categories of harm, responsibility, and agency" (2016, p. 118). Emerging rights, therefore, must be justified with attention to new ontologies of vulnerability.

Finally, heightened epistemic justification is necessary because emerging rights must coexist with and complement existing rights without generating internal contradictions. For example, the right to algorithmic transparency must align with privacy rights, intellectual property regimes, and due process guarantees. The right to mental privacy must align with free speech, bodily autonomy, and criminal procedure. Environmental rights must align with development rights, indigenous rights, and intergenerational justice. Shelton emphasizes this requirement when she states, "the expansion of rights must maintain coherence with the structure and aims of international human rights law" (2010, p. 548). Without epistemic rigor, new rights may unintentionally conflict with existing protections, undermining both.

One of the most significant epistemological risks in contemporary human rights theory is the phenomenon known as conceptual inflation, the progressive and uncontrolled expansion of rights language to include claims that lack the normative gravity, universal justification, or structural urgency traditionally associated with human rights. Conceptual inflation occurs when the term human right is applied indiscriminately to political aspirations, social preferences, or policy objectives that, while perhaps morally commendable, do not meet the epistemic and justificatory criteria required for rights status. This dilution threatens the coherence, legitimacy, and transformative force of the human rights framework.

At its core, conceptual inflation undermines the structural hierarchy of rights by placing trivial, contingent, or narrowly contextual demands on the same level as foundational protections such as life, liberty, bodily integrity, and freedom from torture. When marginal or politically opportunistic claims are framed as universal entitlements, the term "human right" becomes less analytically precise and less normatively compelling. As Donnelly cautions, "the overextension of rights discourse blurs the distinction between fundamental protections and desirable social goals" (2013, p. 57). This blurring weakens the capacity of human rights theory to identify and prioritize the most urgent and morally necessary protections.

Conceptual inflation poses an even greater threat in the context of emerging rights, whose novelty makes them especially susceptible to rhetorical extension. The rapid development of digital technologies, algorithmic systems, neurotechnologies, and environmental crises has generated a proliferation of claims framed as "rights" from digital disconnection rights to data portability rights, neuro-enhancement rights, rights against algorithmic irritation, or abstract "rights to innovation." While some of these claims correspond to genuine and unprecedented vulnerabilities, others are expressions of policy preferences or sector-specific regulatory goals. Without rigorous epistemic criteria, the distinction between the two becomes blurred.

This risk is particularly acute in the digital domain, where the emergence of new forms of informational harm has produced an explosion of claims packaged as "digital rights." Floridi describes the epistemic danger with remarkable precision, arguing that "without conceptual discipline, the proliferation of digital rights risks producing a fragmented and incoherent normative landscape" (2016, p. 118). His warning is not limited to rights in the digital sphere: it is a general caution against the uncritical expansion of the rights catalogue, which can lead to con-

ceptual fragmentation and normative incoherence. Conceptual inflation weakens human rights in at least four ways:

1. Human rights derive their force from the idea that they protect fundamental interests essential for human dignity. If every interest or preference becomes a "right," the term loses its distinctive meaning. As Cruft, Liao, and Renzo emphasize, "human rights are a subset of moral norms characterized by their urgency, robustness, and universality" (2015, p. 9). Inflating the category dissolves that normative robustness.

2. Human rights frameworks rely on the ability to distinguish between more and less urgent claims. Conceptual inflation collapses this hierarchy, making it difficult for institutions to allocate resources, design protections, or adjudicate conflicts. When everything is a right, nothing can be prioritized.

3. Expanding the list of rights without justification places impossible burdens on states, courts, and international bodies. Rights impose duties, and duties entail institutional obligations. Without epistemic control, human rights bodies become expected to enforce norms that were never intended to be rights in the first place.

4. Conceptual inflation enables political actors to rebrand strategic or ideological objectives as "rights," thereby appropriating the moral authority of the human rights discourse. This instrumentalization undermines public trust in the rights system by blurring the line between universal entitlements and partisan rhetoric.

Emerging rights are especially vulnerable to this phenomenon because they arise in contexts where conceptual boundaries are still under construction. Vulnerabilities appear rapidly, often in domains where institutional knowledge is limited. As a result, policymakers and activists may prematurely label regulatory concerns as "rights," bypassing the rigorous epistemic analysis needed to determine whether the claim meets the criteria of universality, necessity, autonomy, and justiciability.

Tasioulas underscores this epistemic challenge, noting that "the recognition of a human right must rest on a compelling justification that the interest involved is both fundamental and universal, not merely socially desirable" (2020, p. 19). His critique reinforces the necessity of resisting conceptual inflation by demanding higher justificatory standards for emerging rights.

Avoiding conceptual inflation is not a conservative resistance to new rights, but a commitment to epistemic discipline. The goal is to ensure that the recognition of emerging rights is principled, rigorous,

and responsive to genuine transformations in vulnerability. This includes:

a) establishing clear criteria for rights recognition,
b) differentiating rights from policy goals,
c) ensuring conceptual autonomy,
d) preserving universality, and
e) maintaining coherence with existing human rights norms.

Epistemology operates as an essential methodological filter in human rights theory: it distinguishes rights from non-rights by clarifying the justificatory conditions under which a normative claim can legitimately enter the domain of human rights. Without this epistemic filtering function, the human rights system risks losing its conceptual coherence, normative authority, and institutional viability. Emerging rights require the most rigorous form of epistemic scrutiny to avoid being absorbed uncritically into the rights catalogue.

Epistemology establishes boundaries not to restrict moral progress, but to ensure that such progress remains principled, justified, and consistent with the foundational commitments of human dignity and universality. These boundaries reflect the fact that human rights constitute a distinct normative category, one defined by universality, fundamental moral urgency, justiciability, and internal coherence. As Cruft *et al.* explain, "human rights are a constrained subset of moral norms;

not all morally relevant interests qualify as human rights" (2015, p. 9). Their insight underscores that rights recognition must proceed through disciplined epistemic evaluation rather than conceptual generosity.

This epistemic evaluation requires proposed rights to meet specific justificatory criteria, including universality, normative necessity, conceptual autonomy, and enforceability. Rights that fail to meet these standards may still represent valuable social goals or ethical aspirations, but they do not possess the normative urgency or structural robustness required to function as human rights. The epistemic task is therefore not to deny the moral worth of such claims, but to prevent them from being mislabeled, thereby preserving the structural hierarchy and functional clarity of the human rights framework.

Shelton captures this filtering function with notable precision when she states that "the expansion of rights must be accompanied by standards that ensure their normative coherence and institutional viability" (2010, p. 548). Her observation highlights epistemology's role as a guardian against the erosion of conceptual clarity. Without such standards, the system becomes vulnerable to conceptual inflation, politicization, and fragmentation. In practical terms, epistemology distinguishes rights from non-rights in several ways (Table 3):

Table 3

Epistemic criterion	Definition	Key scholarly insight	Implication for rights recognition
1. Identifying fundamental vs. contingent interests	Distinguishes core dignity-related interests from contingent or context-specific preferences. Only fundamental interests justify rights.	Raz states that "rights are grounds for duties because the interests they protect are of such importance that they justify imposing obligations on others" (1984, p. 195).	Claims protecting non-fundamental interests must not be elevated to human rights.
2. Ensuring universalizability	Requires that the justification for a right be acceptable to all persons under conditions of moral equality.	Beitz asserts that "a human right must be justifiable to all persons as members of a global moral community" (2009, p. 111).	Claims rooted in culturally specific, partisan, or localized values fail universalizability and cannot constitute human rights.
3. Demanding conceptual autonomy	Requires that the proposed right identify a distinct normative domain not already covered by existing rights.	Nickel warns that "rights should not proliferate without clear demonstration that existing rights cannot serve the protective purpose" (2007, p. 72).	Redundant claims are rejected; only rights identifying new forms of vulnerability earn recognition as emerging rights.

Reference: Table of my own creation.

The epistemic method is not restrictive; rather, it is protective. It safeguards the human rights system from degeneration into a rhetorical tool or an unstructured catalogue of political wishes. By enforcing criteria of universality, necessity, autonomy, and coherence, epistemology preserves the moral authority and institutional legitimacy of human rights.

In the context of emerging rights this methodological rigor is indispensable. Emerging rights must clear an even higher epistemic bar because they operate in novel domains, lack historical jurisprudence, and risk being grounded in rapidly shifting technological or political circumstances.

IV. DISTINGUISHING EMERGING RIGHTS FROM MERE EXTENSIONS OF EXISTING RIGHTS

A central task in the epistemology of emerging human rights is differentiating between genuinely new rights and those claims that constitute mere extensions, reinterpretations, or contextual specifications of rights that already exist. This distinction is not a theoretical luxury, but an epistemic necessity for the legitimacy and coherence of the human rights framework depend on maintaining conceptual clarity regarding which claims qualify as new normative categories and which can be accommodated within the elastic interpretive capacity of established rights. Not every novel claim, regulatory demand, or technological phenomenon warrants

the creation of an emerging right. Indeed, many contemporary proposals may be fully addressed within the conceptual boundaries of classical human rights without requiring the formulation of entirely new rights.

This epistemic differentiation is essential to avoid conceptual redundancy, preserve normative coherence, and maintain the structural integrity of the human rights system. As Nickel warns, "multiplying rights without demonstrating that existing protections are insufficient creates an unnecessarily bloated and conceptually confused catalogue" (2007, p. 75). His observation underscores the need for intellectual discipline when evaluating whether a novel vulnerability requires a new right or merely an updated interpretation of an existing one.

The challenge lies in the fact that technological and ecological transformations often create the appearance of novelty, even when the underlying vulnerability is not new. For example, the rise of social media platforms has led some to call for a "right to online expression," yet the existing right to freedom of expression already encompasses digital communication. Similarly, demands for a "right to internet access" may be more accurately conceptualized as derivatives of existing rights to education, information, or participation, depending on the context. As Beitz notes, "the human rights system contains interpretive elasticity that allows norms to adapt to new circumstances without conceptual reinvention" (2009, p. 129). This elasticity must be recognized and preserved to avoid excessive proliferation of rights categories.

However, the opposite risk also exists: the risk of reductionism of assuming that every new challenge can be subsumed under historical rights categories simply because those categories can be interpreted broadly. This reductionism obscures the possibility that some technological and ecological transformations introduce qualitatively new forms of vulnerability for which classical rights are conceptually inadequate. Floridi, examining the digital environment, emphasizes that "the informational revolution introduces harms that cannot be captured by traditional rights without significant conceptual distortion" (2016, p. 122). His argument helps explain why certain digital, cognitive, and environmental claims cannot be treated as mere extensions and instead require the recognition of emerging rights. Thus, the epistemic task involves navigating between two extremes:

a) Conceptual inflation, which recognizes too many rights; and
b) Conceptual reductionism, which recognizes too few.

Epistemology provides the analytic tools to determine when a proposed claim reflects a genuinely new normative domain or when it can be adequately incorporated within existing frameworks. This requires a detailed examination of the phenomenology of harm, the structure of vulnerability, and the ontological changes introduced by contemporary technologies and environmental conditions.

The contemporary landscape illustrates this tension vividly. Neurotechnology introduces the ability to decode, manipulate, or interfere with neural processes capabilities that classical rights such as privacy, bodily integrity, or freedom of thought cannot fully capture without conceptual strain. As Yuste and Goering argue, "the unprecedented capacity of neurotechnologies to access mental states requires new normative safeguards beyond existing rights" (2017, p. 533). In this domain, emerging rights such as the right to mental privacy or the right to cognitive liberty may indeed be justified.

Similarly, the Anthropocene reveals planetary-level ecological harms that fundamentally redefine the relationship between humans and the environment. Classical rights frameworks assumed ecological stability; these assumptions no longer hold. As Boyd observes, "environmental degradation threatens the foundation upon which all other human rights depend" (2012, p. 44). This insight reveals that certain environmental vulnerabilities require independent recognition rather than simple reinterpretation of existing rights.

In contrast, many claims in the field of artificial intelligence do not identify fundamentally new goods or vulnerabilities. They can be effectively addressed under existing rights to privacy, non-discrimination, or consumer protection without introducing new rights categories. Atienza highlights the importance of resisting conceptual laxity, noting that "legal concepts must retain analytical precision if they are to function as effective tools of normative judgment" (2019, p. 101).

Therefore, a rigorous epistemological framework is indispensable for preventing the uncontrolled proliferation of rights categories and ensuring that new rights are recognized only when they address genuinely novel and normatively significant vulnerabilities. Distinguishing emerging rights from mere extensions is not merely a conceptual exercise, it is essential for maintaining the stability, integrity, and legitimacy of the human rights project in an era of rapid and disruptive transformation.

1. The problem of redundancy in emerging rights discourse

The problem of redundancy constitutes one of the most persistent epistemological challenges in contemporary debates

on emerging human rights. Redundancy arises when a proposed "new right" merely restates, reformulates, or repackages a dimension of an already-recognized right without adding conceptual autonomy, normative novelty, or distinct analytic necessity. In such cases, the creation of a new right does not illuminate a new domain of human vulnerability; instead, it multiplies rights language without corresponding conceptual advancement. Redundant rights contribute little to the protection of human dignity and risk collapsing the conceptual structure of human rights into an overly expansive and unmanageable catalogue.

Redundancy is particularly common in technologically driven debates. For instance, proposals for a "right to online privacy" often fail to identify vulnerabilities that cannot be addressed by the broader and already well-established right to privacy enshrined in instruments such as Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights. In many cases, digital contexts merely introduce new modalities through which classical privacy violations occur, rather than fundamentally new types of harm. Similarly, the proposed "right to digital dignity" is, in most formulations, conceptually derivative of the longstanding and foundational right to human dignity recognized in virtually all constitutional

and international human rights systems. Unless such proposals can demonstrate that digital technologies produce qualitatively new impairments to dignity, they risk repeating existing protections under superficial terminological innovation.

Nickel explicitly addresses this risk, warning that "multiplying rights without demonstrating that existing rights are insufficient creates an unnecessarily bloated catalogue" (2007, p. 75). His critique underscores an essential epistemic responsibility: the recognition of a new right must be justified not merely by pointing to new empirical contexts, but by demonstrating that the existing rights framework is structurally incapable of responding to the emerging harm. Without this demonstration, a proposed right collapses into redundancy and undermines the analytical clarity of the human rights system.

Redundancy often emerges because the appearance of novelty is mistaken for the existence of novelty. In digital and technological domains, new contexts may create the illusion of conceptual novelty when, in fact, the underlying normative concerns remain fundamentally similar: arbitrary interference, discrimination, lack of transparency, or impairment of autonomy. As Beitz emphasizes, "the human rights system possesses interpretive flexibility that enables classical rights to respond to new social circumstances with-

out conceptual reinvention" (2009, p. 129). This interpretive elasticity allows courts and legislatures to apply traditional rights in technologically novel contexts without the need to create new rights categories.

However, the risk of redundancy is not limited to digital environments. Environmental debates also suffer from conceptual inflation when claims such as "the right to blue skies," "the right to unpolluted oceans," or "the right to uncontaminated soils" essentially rephrase dimensions of the broader right to a healthy environment already recognized in regional and domestic legal systems. Without demonstrating that these sub-claims identify distinct harms or normative goods requiring separate treatment, they add conceptual noise rather than clarity.

Similarly, in neurotechnology, claims for a "right to neural privacy" or "right to mental integrity" may fall into redundancy if they merely duplicate protections available through privacy, bodily integrity, or freedom of thought. What differentiates redundancy from emerging-rights legitimacy is whether the new context qualitatively transforms the nature of the harm. As Yuste and Goering explain, "neurotechnologies raise unique risks because they can access and alter neural processes previously considered inaccessible" (2017, p. 533). This uniqueness may justify new rights, but only when demonstrably distinct from existing protections.

Redundancy also threatens the normative hierarchy of rights. Human rights theory relies on prioritization: some rights protect fundamental prerequisites of human dignity while others protect important, but derivative interests. Redundant rights blur these distinctions by granting the same normative weight to trivial, derivative, or marginal claims. Donnelly expresses this concern when he notes that "the overextension of rights discourse obscures the distinction between essential human protections and desirable policy goals" (2013, p. 57).

Left unchecked, redundancy leads to conceptual inflation, normative confusion, and political instrumentalization. Rights lose their gravity when the category expands indiscriminately. The epistemic task, therefore, is to filter redundancy through strong justificatory criteria ensuring that the emergence of new rights corresponds to new forms of vulnerability, not simply new forms of expression or classification.

2. Epistemic tests for distinguishing new rights from extensions

Evaluating whether a proposed right constitutes a genuine emerging human right or merely an extension or specification of existing rights requires the application of rigorous epistemic tests. These tests serve as analytical tools for determining whether the proposed right introduces a new

normative domain or simply adapts classical human rights to novel empirical circumstances. The epistemic tests described below are essential for preserving conceptual clarity, avoiding redundancy, and ensuring that the recognition of new rights is guided by principled reasoning rather than political expediency or rhetorical innovation. A proposed claim is likely an extension if it satisfies the following epistemic criteria (Table 4).

3. Avoiding both reductionism and inflation
Epistemology plays a central role in safeguarding the integrity of the human rights system by ensuring that it neither collapses into reductionism nor expands into inflation. These two epistemic errors represent opposite yet equally destructive tendencies: one shrinks the conceptual space of human rights to the point of inadequacy, while the other expands it so indiscriminately that the very meaning

Table 4

Epistemic test	Core criterion	Description	Examples	Key scholarly support
1. Existing rights can address the vulnerability with minor interpretive adjustments	Interpretive elasticity	A proposed right is not emerging if courts or legislatures can address the harm by extending or refining existing rights such as privacy, autonomy, equality, or free expression.	• Extending privacy to digital metadata instead of creating a "metadata privacy right." • Applying classical free speech principles to content moderation on social media.	Beitz: "rights systems possess interpretive elasticity that allows them to adapt to new circumstances without conceptual reinvention" (2009, p. 129).
2. The proposed claim identifies no new good, only a new context	No new normative good	A claim is merely a contextual adaptation when the underlying good (privacy, dignity, autonomy) remains unchanged and only its environment is novel.	• "Freedom of expression on social media" = Contextual manifestation of free expression. • "Digital dignity" = Redundant unless digital contexts create qualitatively new dignity-related harms.	Nickel: "rights should not proliferate without clear demonstration that existing rights cannot serve the protective purpose" (2007, p. 72).
3. The proposed right does not require new duty-bearers or normative obligations	No new obligations	If new claims generate no new duties or responsibility structures —beyond what existing rights already require— the claim does not justify recognition as an emerging right.	• Claims about algorithmic harm that require only traditional obligations against arbitrary interference. • Claims that do not require new roles for AI developers, neurotech firms, or planetary-scale actors.	Griffin: "rights must be formulated in a way that allows them to guide adjudication and the assignment of duties" (2008, p. 38). Floridi: "the informational revolution creates novel responsibilities for actors previously outside traditional human rights frameworks" (2016, p. 115).
Synthesis: Collective function of epistemic tests	Systemic coherence	The three tests work together to prevent conceptual inflation and ensure that new rights are recognized only when justified by genuine transformations in vulnerability.	Emerging rights are legitimate **only if** harms cannot be addressed by existing rights, identify new goods, and require new obligations.	Proper application ensures the human rights system remains "flexible but bounded," maintaining conceptual clarity and normative authority.

Reference: Table of my own creation.

of "right" becomes diluted. Thus, the epistemological task is to navigate between these extremes with conceptual precision, identifying genuine emerging rights only when new ontologies of vulnerability warrant their recognition.

Reductionism occurs when analysts or institutions assume that all novel claims can be subsumed under existing human rights categories. This epistemic posture fails to recognize that technological, ecological, and socio-political transformations can fundamentally alter the nature, scope, and mechanisms of harm to human beings. Reductionism treats emerging vulnerabilities as mere replications of past harms, missing moments of conceptual rupture. Examples of reductionism include:

I. Treating neurotechnological access to brain signals as merely a privacy issue, ignoring that neural data is ontologically distinct from classical personal data.
II. Viewing algorithmic discrimination as a simple extension of equality rights, without recognizing the opacity, scale, and automated nature of computational decision-making.
III. Framing planetary ecological collapse as a mere environmental issue, rather than understanding its systemic and intergenerational nature.

Reductionism therefore underestimates the transformative dimensions of contemporary threats. Floridi underscores this point when he notes that digital transformation "forces us to rethink foundational categories of harm, responsibility, and agency" (2016, p. 118). A reductionist epistemology ignores these shifts, leading to inadequate conceptual protection.

V. Inflation: The risk of conceptual overexpansion

At the opposite extreme lies inflation, the indiscriminate recognition of new rights in response to every emerging risk, social concern, or technological innovation. Inflation results when analysts assume that every new problem requires a new right, thereby leading to conceptual saturation and undermining the hierarchy and clarity of human rights. Examples of inflation include:

I. Proposals for a "right to a pleasant digital experience," a claim that lacks the normative gravity required for rights recognition.
II. Policy-oriented demands such as "a right to user-friendly apps" framed as rights despite lacking fundamental dignity implications.
III. Claims like "the right to uninterrupted internet entertainment," which represent consumer preferences rather than universal moral necessities.

Donnelly warns that such proliferation "blurs the distinction between fundamental protections and desirable social goals" (2013, p. 57). Inflation weakens institutional capacity, generates interpretative confusion, and erodes the moral force of rights.

The balance between reductionism and inflation lies in accurately identifying novel ontologies of vulnerability new structural conditions that fundamentally transform how humans can be harmed or protected. These ontologies arise in four principal domains:

I. Informational vulnerability (digital surveillance, data extraction, algorithmic profiling),
II. Cognitive vulnerability (neurotechnological inference, manipulation of mental states),
III. Algorithmic vulnerability (opaque AI decision-making, automated injustice), and
IV. Planetary vulnerability (climate collapse, biodiversity loss, ecological destabilization).

These vulnerabilities alter the conceptual landscape of human rights because they challenge foundational assumptions about autonomy, identity, agency, and the ecological conditions necessary for life. Atienza emphasizes this need for substantive conceptual transformation, stating that "legal concepts must evolve when faced with phenomena that cannot be captured by their original meaning" (2019, p. 101). This evolution is not inflationary; it is intellectually necessary when new forms of harm cannot be addressed within classical frameworks.

The epistemological antidote to both reductionism and inflation lies in constructing standards of normative validity that ensure only conceptually justified rights enter the human rights corpus. These standards act as a filter, distinguishing genuine emerging rights from rhetorical innovations or policy preferences.

Shelton captures this balancing act precisely when she warns that "the expansion of rights must be accompanied by standards that ensure their normative coherence and institutional viability" (2010, p. 548). Without such standards, epistemology cannot distinguish between:

a) a new right required by a new form of vulnerability, and
b) a contextual specification that belongs within an existing right.

This distinction is critical for maintaining the conceptual architecture of human rights.

VI. TOWARD AN INTEGRATED EPISTEMOLOGY OF EMERGING HUMAN RIGHTS

As the analysis of emerging human rights culminates, it becomes imperative to articulate an integrated epistemological framework capable of guiding the principled evolution of rights in an era characterized by unprecedented technological, ecological, cognitive, and socio-political transformations. Emerging rights do not arise in a conceptual vacuum, nor do they emerge spontaneously from isolated normative intuitions. They are the product of intricate interactions between moral reasoning, empirical insight, institutional practice, philosophical clarity, and the evolving structures of human vulnerability. Consequently, a comprehensive epistemology of emerging human rights must synthesize the justificatory criteria, conceptual boundaries, analytical distinctions, and normative principles delineated throughout this study, while offering a unified methodological foundation for future rights recognition.

At the heart of this integrated epistemology lies the insight that emerging rights occupy a conceptual space in which innovation and continuity intersect. This duality constitutes the fundamental tension of contemporary rights theory. On one hand, the human rights system must remain open to normative expansion to address unprecedented vulnerabilities such as algorithmic opacity, neurotechnological manipulation, planetary destabilization, invasive datafication, automated governance, and intensified surveillance infrastructures. These phenomena introduce harms that fundamentally alter the conditions under which human agency, identity, and dignity are exercised. On the other hand, the system must preserve its internal coherence, conceptual rigor, and normative hierarchy to maintain its legitimacy, applicability, and institutional viability. Without such coherence, innovation risks devolving into conceptual inflation, weakening the moral force of the human rights framework itself.

The challenge, then, is epistemic in nature: how can the human rights system remain flexible enough to respond to new realities while remaining structured enough to preserve its integrity? Floridi articulates this dual challenge with remarkable acuity, noting that "the informational revolution forces us to rethink foundational categories, but this rethinking must be disciplined, not disruptive for its own sake" (2016, p. 118). His insight underscores the necessity of epistemic innovation grounded in methodological restraint a balance between conceptual creativity and rigorous evaluation. To accomplish this, emerging rights must be evaluated through a unified epistemolog-

ical framework grounded in three central pillars:

1. The ontology of vulnerability,
2. The structure of justification, and
3. The architecture of obligations.

These pillars serve not only as analytical tools, but as interconnected dimensions of a comprehensive methodology for rights recognition in the twenty-first century.

1. The ontology of vulnerability: identifying new structures of harm

The first pillar of an integrated epistemology of emerging human rights is the ontology of vulnerability, a conceptual framework dedicated to understanding how the very conditions under which harm occurs have been radically transformed in the contemporary era. Historically, the human rights system was built to address vulnerabilities arising from physical violence, political repression, deprivation of liberty, and discriminatory exclusion. These classical vulnerabilities shaped the entire architecture of twentieth-century rights discourse.

Today, however, the human condition is shaped by a profoundly different constellation of forces. Technological infrastructures, algorithmic systems, neurotechnological tools, global corporate intermediaries, and planetary disruptions have created entirely new ontologies of

harm that is, new ways in which vulnerability becomes structured, mediated, produced, and amplified. Emerging rights arise only when these new ontological conditions exceed the conceptual reach, protective capacity, or justificatory structure of existing rights.

Understanding the ontology of vulnerability therefore requires analyzing the new forms, sites, scales, and temporalities of harm that characterize life in the twenty-first century (Table 5).

2. The structure of justification: establishing epistemic legitimacy

The second pillar constitutes the epistemic core of any defensible theory of emerging human rights. While the ontology of vulnerability identifies why new rights may be necessary, the structure of justification determines whether such rights can legitimately be recognized within the normative and institutional framework of contemporary human rights law. This pillar functions as an evaluative mechanism through which putative rights are subjected to systematic scrutiny to determine whether they meet the moral, conceptual, and juridical standards required for rights recognition.

At its most fundamental level, the structure of justification requires that emerging rights be grounded in forms of reasoning that are universally accessible, morally compelling, and institutionally

Table 5

Type of vulnerability	Definition and core features	Why it exceeds classical rights frameworks	Illustrative scholarly support	Emergent rights implicated
A. Informational vulnerability	Arises from living in environments where identity, behavior, preferences, and interactions are continuously recorded, analyzed, predicted, and modified. Includes behavioral tracking, algorithmic inferencing, surveillance-by-default, and irreversible data aggregation.	Classical privacy rights were conceived for discrete, individualized intrusions, not structural, predictive, population-wide informational harms. Traditional rights cannot address continuous profiling, algorithmic inference, or datafied environments as ontologically new sites of harm.	Floridi explains that "the informational revolution forces us to rethink foundational categories of personhood, agency, and harm" (2016, p. 118).	Right to informational self-determination; right to protection against algorithmic inference; right to digital obscurity.
B. Cognitive and neurobiological vulnerability	Refers to threats posed by neuro-technologies capable of decoding, predicting, or manipulating neural activity, thereby targeting the internal forum of thought, intention, and selfhood.	Classical privacy protects external information, not neural states. Existing rights cannot govern cognitive prediction, pre-conscious inference, or technological manipulation of mental states. Autonomy, identity, and consent become destabilized.	Ienca & Andorno note that "the loss of mental privacy would constitute a violation more profound than any known form of informational intrusion" (2017, p. 10).	Right to mental privacy; right to cognitive liberty; right to psychological continuity.
C. Algorithmic vulnerability	Emerges from the increasing use of automated, opaque, large-scale decision-making systems in employment, credit, healthcare, education, mobility, and governance. Defined by opacity, unpredictability, and non-human agency.	Classical equality and due process rights presuppose transparent human actors. Algorithmic harms are produced by autonomous systems without identifiable perpetrators, making traditional procedural protections insufficient.	O'Neil demonstrates that "algorithmic systems create feedback loops of inequality that are invisible, unregulated, and difficult to contest" (2016, p. 42).	Right to algorithmic explainability; right to meaningful human review; right to contest automated decisions.
D. Infrastructural vulnerability	Stems from structural dependence on private digital infrastructures (platforms, authentication systems, content moderation, digital identity management) that mediate communication, visibility, labor, and participation.	Classical human rights frameworks assume state-centered power. Contemporary digital infrastructures operate as quasi-sovereign actors beyond traditional public-law accountability mechanisms.	Cohen argues that "digital platforms increasingly act as de facto governors of social life, determining the boundaries of participation and visibility" (2019, p. 132).	Rights against platform domination; rights guaranteeing digital access and visibility; rights constraining corporate quasi-sovereignty.
E. Planetary vulnerability	Refers to ecological destabilization resulting from anthropogenic impacts that threaten the physical and biological conditions necessary for human life. These harms are systemic, intergenerational, irreversible, and collective.	Classical environmental rights assume localized harms and human-centered interests; they do not address planetary boundaries, ecosystem collapse, or the intrinsic value of nature. Stability of Earth systems is a precondition for all other rights.	Rockström *et al.* warn that "crossing planetary boundaries may trigger irreversible environmental changes that undermine the basis of human well-being" (2009, p. 472).	Rights of nature; intergenerational ecological rights; right to ecological integrity.
F. Phenomenology of vulnerability (Gatekeeper function)	A deep analysis of how new harms reshape assumptions about autonomy, agency, identity, dignity, the mind, the body, and the environment.	New rights emerge only when vulnerabilities transcend the conceptual reach of existing rights and cannot be absorbed through interpretation. Phenomenology determines when incremental adaptation is insufficient.	The cumulative insights of Floridi (2016), Ienca & Andorno (2017), Cohen (2019), and Rockström *et al.* (2009) illustrate the epistemic necessity of redefining human rights under new forms of harm.	Serves as the normative foundation for determining which emerging rights are epistemically justified.

Reference: Table of my own creation.

compatible with the human rights system. Human rights must not be justified through parochial cultural assumptions, ideological preferences, or policy priorities. Instead, they must be anchored in reasons that all persons can recognize as valid. This requirement reflects the moral egalitarianism inherent in the idea of human rights. Nino articulates this point decisively when he asserts that "the legiti-

macy of human rights is grounded in moral reasoning capable of universal justification" (2007, p. 44).

The structure of justification demands that emerging rights satisfy five interdependent and mutually reinforcing criteria. Each criterion functions as a conceptual filter through which the normative validity of a proposed right must pass. Collectively, these criteria create a rigorous epistemic scaffolding designed to prevent conceptual inflation, ensure coherence, and preserve the authority of the human rights framework.

Universality requires that the vulnerability addressed by a proposed right relates to conditions that affect all persons as moral equals, whether directly or potentially. This does not mean that the harm must currently be experienced by everyone; rather, the risk must be tied to general features of human agency, autonomy, or embodiment.

A proposed right must demonstrate that the current system of human rights cannot adequately protect against the harm in question. If an existing right can be reasonably interpreted or extended to address the harm, then a new right is unnecessary.

Nickel warns that "rights should not proliferate without clear demonstration that existing rights cannot serve the protective purpose" (2007, p. 72). Normative necessity therefore prevents redundant, duplicative, or conceptually trivial claims from entering the rights catalogue.

Conceptual autonomy demands that a proposed emerging right articulate a distinct normative good one not captured by existing categories. Without conceptual autonomy, the new right becomes merely an inflated reformulation of pre-existing rights.

Failure to satisfy even one of these criteria results in conceptual inflation the uncontrolled expansion of rights discourse. Conceptual inflation weakens normative precision and blurs the distinction between fundamental protections and desirable policy goals. Donnelly cautions sharply against such inflation, warning that "the overextension of rights discourse obscures the difference between essential protections and desirable social goals" (2013, p. 57). Inflation has three dangers:

I. It dilutes moral urgency, making all claims appear equally important.
II. It overloads institutions, imposing unmanageable obligations on states and courts.
III. It invites political manipulation, allowing policy preferences to be misbranded as rights.

3. The architecture of obligations: defining duty-bearers in novel contexts

The third pillar constitutes a crucial component of an integrated epistemology of

emerging human rights. While traditional human rights frameworks were designed in a world where the state was presumed to be the principal threat to human dignity and the primary bearer of legal obligations, the landscape of the twenty-first century dramatically complicates this assumption. Contemporary vulnerabilities arise not only from public authority, but from a diverse constellation of non-state actors, hybrid institutions, and transnational systems whose power often exceeds that of sovereign states. Accordingly, the recognition of emerging rights requires a profound reconfiguration of the architecture of obligations: the system of identifying, assigning, and enforcing duties associated with rights claims.

Emerging rights frequently operate in domains where classic public-law assumptions collapse. Digital infrastructures, algorithmic architectures, neurotechnological devices, and global ecological systems are controlled or influenced by actors whose authority arises not from political sovereignty, but from technological design, economic power, or systemic dominance. As a result, the traditional model no longer captures the complexity of contemporary harm. Instead, emerging rights require a polycentric, multi-layered ecology of obligations encompassing states, corporations, developers, platforms, multilateral organizations, and even collective actors such as indigenous communities or future generations.

Griffin articulates the foundational element of this shift when he emphasizes that "rights must be formulated in a way that allows them to guide adjudication and the assignment of duties" (2008, p. 38). His observation underscores an essential epistemic requirement for emerging rights: they must be constructed so that obligations are not only identifiable, but also actionable, enforceable, and institutionally feasible (Table 6).

VII. CONCLUSIONS

The epistemological inquiry undertaken in this study reveals that the phenomenon of emerging human rights cannot be understood merely as an additive expansion of the traditional rights catalogue. Instead, it constitutes a profound transformation in the conceptual, normative, and institutional architecture of human rights. The accelerating reconfiguration of human vulnerability forces legal and philosophical systems to re-evaluate foundational assumptions about dignity, autonomy, equality, and the conditions under which human beings can meaningfully exercise agency.

The central insight derived from this analysis is that emerging rights do not arise from moral enthusiasm or political convenience; they emerge from epistemic necessity. They arise because the empirical structures of harm that characterize

Table 6

Category	Description of emerging duty-bearers	Key obligations required
A. New duty-bearers in the digital and algorithmic environment	Digital platforms, AI developers, data processors, algorithmic designers, and technology corporations responsible for shaping communication, identity, opportunity, and public discourse.	• Transparency in algorithmic design
• Auditability of machine-learning systems		
• Non-discrimination in predictive analytics		
• Traceability in automated decisions		
• Contestability for affected individuals	Digital infrastructures exert quasi-regulatory power; therefore, obligations extend beyond states to private actors. Floridi & Taddeo note that "the informational environment creates responsibilities that cannot be understood under traditional models of state-centered governance" (2016, p. 12).	
B. Neurotechnological duty-bearers: Protecting the cognitive domain	Neurotechnology companies, brain-computer interface developers, research labs, neuro-device manufacturers, medical institutions, and commercial entities handling neural data.	• Restrictions on neural decoding and cognitive inference
• Protections against cognitive manipulation		
• Consent standards for neural monitoring		
• Ethical limits on neural stimulation		
• Secure handling of neural data	New neurotechnologies target the internal forum of thought, creating unprecedented threats. Ienca & Andorno observe that "the loss of mental privacy would constitute a violation more profound than any known form of informational intrusion" (2017, p. 10).	
C. Ecological duty-bearers in the Anthropocene	States, multinational corporations, extractive industries, international institutions, collective actors, and present generations acting on behalf of future ones.	• Ecological stewardship
• Limits on resource extraction		
• Restoration obligations		
• Climate mitigation and adaptation		
• Protection of ecosystems as rights-holders	Planetary destabilization requires duties transcending anthropocentric frameworks. Cullinan argues that "environmental rights require a paradigm shift from anthropocentric obligations to obligations grounded in ecological integrity" (2011, p. 89).	
D. Institutional innovation and regulatory reconfiguration	Specialized oversight bodies, AI auditing agencies, neurotechnology regulators, ecological tribunals, transnational institutions governing digital and environmental commons.	• Certification of AI systems
• Monitoring and compliance audits		
• Algorithmic transparency tribunals		
• Ecological courts for non-human or intergenerational claims		
• Transnational governance mechanisms	Effective enforcement requires new institutional designs. Donnelly warns that "rights discourse loses its potency when not anchored in viable institutional mechanisms" (2013, p. 57).	
E. Ensuring enforceability and preventing symbolic rights	All relevant actors: states, corporations, developers, platforms, industries, and international organizations.	• Clear identification of duty-bearers
• Definition of enforceable obligations		
• Articulation of remedies and adjudicatory pathways		
• Creation of compliance and accountability systems	A right without defined obligations is merely aspirational. Griffin stresses that "rights must be formulated in a way that allows them to guide adjudication and the assignment of duties" (2008, p. 38).	

Reference: Table of my own creation.

twenty-first-century life have outpaced the conceptual reach of classical human rights. As Floridi observes, the informational revolution "forces us to rethink foundational categories" (2016, p. 118), not because existing concepts are obsolete, but because they were never formulated with the digital and neurotechnological environment in mind. Traditional rights presupposed mental opacity, human-centered decision-making, and ecological stability assumptions that no longer hold.

The genealogy of emerging rights demonstrates that their legitimacy depends on the identification of novel ontologies of vulnerability. These are vulnerabilities that not only differ in degree, but differ in kind from those contemplated by historical rights frameworks. Informational vulnerability, cognitive vulnerability, algorithmic vulnerability, and planetary vulnerability require normative solutions that classical rights cannot provide without conceptual distortion. Emerging rights are justified only when the structure of harm fundamentally alters what it means to be a person, a rights-holder, or a human agent embedded in socio-technological and ecological systems.

Epistemology thus proves indispensable as the methodological framework for distinguishing genuine emerging rights from mere contextual interpretations or regulatory aspirations. The epistemic criteria articulated in this study function as intel-

lectual safeguards that protect the human rights system from conceptual inflation and normative fragmentation. As Donnelly warns, the overextension of rights discourse "obscures the difference between essential protections and desirable social goals" (2013, p. 57). Without epistemic discipline, the category of "human rights" risks devolving into an undifferentiated list of aspirational claims.

Moreover, this study demonstrates that emerging rights are not isolated normative innovations, but part of a complex dialectic between continuity and rupture. They embody continuity insofar as they remain grounded in the foundational principle of human dignity; yet they represent rupture insofar as they respond to new vulnerabilities that traditional rights frameworks cannot comprehend. This dialectical movement reveals the adaptability of the human rights project while highlighting the need for conceptual restraint and methodological rigor.

Seen in this light, the evolution of human rights in the twenty-first century is not merely a juridical expansion, it is an epistemic recalibration. It demands an integrated understanding of vulnerability, justification, and obligation. It requires a renewed commitment to philosophical clarity and institutional coherence. And above all, it necessitates a human rights theory capable of addressing the unprecedented transformations of our time

without sacrificing its core normative foundations.

At its core, this study illuminates the necessity of crafting a human rights system that is both conceptually resilient and dynamically responsive capable of evolving alongside the profound shifts reshaping human existence.

First, the ontology of vulnerability has emerged as the fulcrum on which the legitimacy of emerging rights turns. Twenty-first-century harms no longer conform to the physical, political, or interpersonal modalities of past eras. Instead, they emerge from algorithmic systems capable of large-scale social sorting; from neurotechnological devices that blur the boundary between cognition and computation; from digital platforms that mediate communication, identity, and social life; and from the destabilizing consequences of climate collapse. These forms of vulnerability exceed the conceptual reach of classical rights and demand a deeper understanding of what constitutes harm in technologically mediated and ecologically unstable environments. As Ienca and Andorno argue, the emergence of neurotechnologies means that "the loss of mental privacy would constitute a violation more profound than any known form of informational intrusion" (2017, p. 10), illustrating that new harms generate new normative imperatives.

Second, the structure of justification remains indispensable for ensuring that the rights system evolves in a principled manner. Human rights must retain their character as universal entitlements grounded in moral reasoning accessible to all. The criteria of universality, normative necessity, conceptual autonomy, justiciability, and systemic coherence ensure that emerging rights are not recognized merely because they are politically attractive or technologically fashionable. Rather, they must be recognized only when they correspond to fundamental transformations in the human condition and when failing to recognize them would leave essential dimensions of dignity unprotected. The tension between innovation and conceptual inflation must be resolved through epistemic rigor, not rhetorical enthusiasm.

Third, the architecture of obligations challenges human rights theory to reconceptualize the identity and scope of duty-bearers. Power in the twenty-first century is radically distributed. Algorithms make decisions previously reserved for courts, bureaucracies, or democratic institutions. Corporations own and control infrastructures that structure identity, communication, and economic life. Neurotechnology developers influence the boundaries of cognitive autonomy. Fossil fuel industries and multinational actors drive ecological harm with intergenerational consequences. A rights system that

continues to assign primary obligations exclusively to states ignores the complex diffusion of power in contemporary society. Emerging rights therefore demand multilayered duties state obligations, corporate responsibilities, institutional mechanisms, and collective ecological commitments.

Fourth, the integrated epistemology developed in this article provides a blueprint for future rights recognition. It offers a disciplined method for determining when emerging rights are necessary, how they should be justified, how they relate to existing rights, and what obligations they require. This integrated model ensures that the human rights system remains both principled and adaptive.

In an era defined by neurotechnological penetration, algorithmic governance, pervasive data extraction, and planetary instability, the future of human rights depends on the capacity to build a system that is both stable and transformative anchored in its foundational principles yet capable of evolving through disciplined innovation. Emerging human rights represent not the abandonment of the classical human rights project, but it's necessary renewal. Through epistemic precision, conceptual clarity, and institutional adaptability, human rights can continue to serve as the moral and legal backbone of human dignity in a century that challenges every assumption inherited from the past.

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