

Mental privacy, self-expression, and hermeneutical injustice

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Introduction

- There has been marked improvement in neurotechnological methods of decoding mental states
- Interest in non-therapeutic applications (e.g., cognitive enhancement, entertainment)
- Such interest has informed calls for neurorights, including **mental privacy (MP)**
- Use of neurotechnological attention monitoring by companies across the world already¹

Case Study

- Electroencephalography (EEG) headbands in the classroom^{2,3}
- Attention monitoring to improve academic performance
- Trialed on 10,000 schoolchildren in China aged 10-17 (as of Jan 19, 2019)

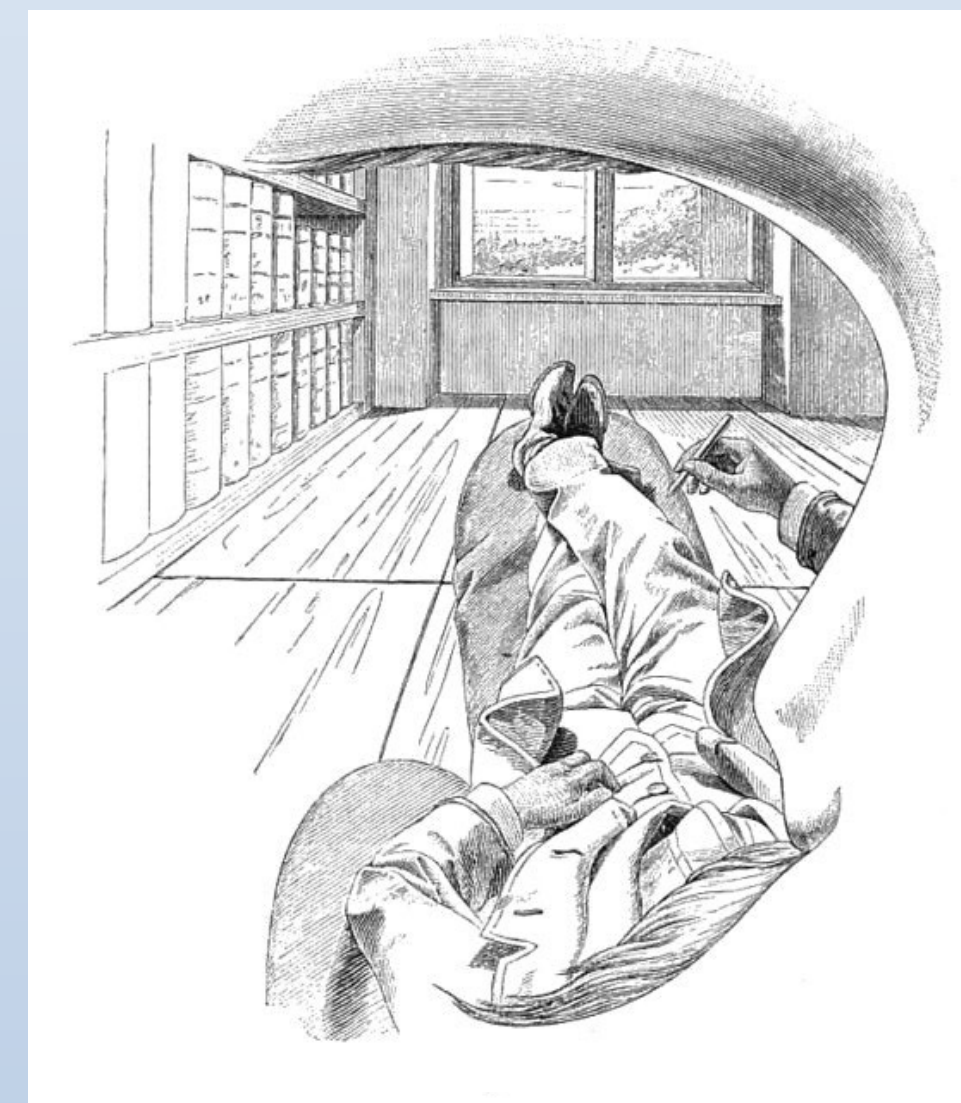


Figure 1. Ernst Mach's self-portrait⁹

Existing Accounts of MP

Control Theories⁴⁻⁶

- MP about autonomous governance of ourselves and information about us
- Problems:
 - Won't work for non-autonomous minors
 - Unclear scope and strength
 - Lack of substantive grounds for making autonomous decisions

Contextual Integrity⁷

- Appropriateness of flows of information is context-specific, dependent on social norms
- Norms in turn depend on "the values, ends, and purposes of the social contexts in which we find them."⁸
- Problems:
 - Seems to imply deep relativism
 - Not intended for normative analysis

Existing accounts need supplementation to make sense of:

- *What is morally distinctive about mental privacy?*
- *What is distinctive about neurotechnological threats to it?*

A New Proposal

The distinctiveness of mental privacy

- Ground MP in the value of self-expression
- Self-expression of what, exactly?
- Answer: our introspective awareness of our own mental life (see Figure 1)

Distinctiveness of neurotechnological threats

- Bypass person-level behavior entirely
- Especially threatening to self-expression and self-definition
 - Risk of **hermeneutical injustice**¹⁰ (diminishment of our interpretive resources)

Details

- Introspection as highly interpretive, even Socratic¹¹
- Potential for **offloading** self-interpretation to an external device (such as EEG headbands from the case study)
- "Exospection" in which an external device informs us of our own subjective states risks eroding capacities for monitoring and reflectively interpreting our mental life, and expressing it to others
- Self-expression as a ground of respect and irreplaceability¹²
 - Plausible as an element of our fundamental humanity

Conclusions

- Calls for legal enshrinement of mental privacy are urgent.
- There is a need for more conceptual and empirical work on digital and neurotechnological reliance.

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