NON-INVASIVE NEUROMODULATION, VULNERABILITY AND COERCION

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Three types of cases

- Decisional incompetence (substitute decision-making)
  - Youth
  - Mental disability
- Decisional competence (coerced consent)
  - Criminal offenders
  - Mental illness
  - Employers
- Decisional competence (diffuse social pressure)
  - Competition (workplace, school)
  - Ideology of self-optimization and responsibility (e.g. dementia prevention)
Two case studies

Children

- **Enhancement**
  - e.g. Memory, attention and cognitive performance, motor skills, vision, decision making and problem solving, mathematical cognition, language.

- **Therapeutic**
  - e.g. Stroke and cerebral palsy, epilepsy, neuropsychiatric disorders, etc.

Criminal offenders

- **Proactive aggression**

- **Social norm compliance**

- **Addiction**
The framework for evaluation

Children

- Evaluation of the use of NIBS to enhance cognition in children.
  - The best interests of the child
- Enhancement
  - “I took a good deal o’ pains with his eddication, sir; let him run in the streets when he was very young, and shift for hisself. It’s the only way to make a boy sharp, sir.”
    - Charles Dickens, The Pickwick Papers, 1836
  - Orthodontics, vaccination, etc.

Criminal offenders

- Ethical evaluation of rehabilitative treatment of offenders
  - Punishment or therapy?
  - Good reasons to evaluate rehabilitation within the framework applicable to therapy.
- Evaluation of the application of NIBS to rehabilitate offenders.
  - The best interests of the offender
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<th>When is change beneficial?</th>
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<td><strong>Children</strong></td>
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<td>• Is this about satisfying the expectations and desires of others?</td>
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<td>• Parental expectations and standards.</td>
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<td>• Is it in the child’s best interest to satisfy the expectations and demands of parents, schools, peers, society?</td>
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<td><strong>Criminal offenders</strong></td>
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<td>• The objective of rehabilitation</td>
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<td>• Adoption of (or at least compliance with) important social norms.</td>
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<td>• But are those social norms valid?</td>
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|   • Is it in an offender’s interest to satisfy those norms?
The self-fulfilling prophecy of blaming the brain?

Children

• Identity, self-efficacy and the “Golem effect”

Criminal offenders

• Identity, self-efficacy and desistance
  • R. v. Ominayak (2007 ABQB 442)
    • “It’s not me; it’s the brain damage.”
    • “It’s not me; it’s the medication that isn’t working.”
If there is coercion, who is in control?

Children

- Parents?
  - “[I]t is sad, it really is sad. I think that we are losing some of the value of the system because of it. I would always tell my kids: ‘Do your best and I will be happy and I will be proud.’ The reality is that you have got to perform or you are not going anywhere. It is scary but it is true.”
  - “Other [parents] did acknowledge…that others’ parenting practices (forcing their child to use CEs) would be a concern if it began to disadvantage their own child.”

Criminal offenders

- Judges?
  - Recognize reduced risk after offender obtains treatment that a judge would never endorse directly?
- Physicians?
  - Refuse to provide a treatment sought by the offender?