

ORIGINAL ARTICLE

Social pathologies of informational privacy

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1 | INTRODUCTION

Following the recent practice turn in privacy research, informational privacy is increasingly analyzed with regard to the “appropriate flow of information” within a given practice, which preserves the “contextual integrity” of that practice (Nissenbaum, 2010, p. 149; 2015). Such a practice-theoretical take on privacy emphasizes the normative structure of practices as well as its structural injustices and power asymmetries, rather than focusing on the intentions and moral considerations of individual or institutional actors. Since privacy norms are seen to be institutionalized via the role obligations of the practice’s participants, this approach can analyze structural and systematic privacy infringements in terms of “defective role performances and defective social relations” (Roessler & Mokrosinska, 2013, p. 780).

Unfortunately, it is still often somewhat unclear what this exactly means within the context of informational privacy, why these performances and relations are defective and for whom. This raises the common objection of a so-called “practice positivism” (Appelbaum, 1999, p. 51), that is, the difficulty of practice-theoretical accounts to take a practice-independent standpoint, from which to normatively evaluate the existing practice norms themselves. For example, Nissenbaum herself initially argues for a “presumption in favor of the status quo” with respect to the appropriateness and flow of privacy norms within a practice (Nissenbaum, 2004, p. 127). Such a “practice conservatism” (Nissenbaum, 2010, p. 169) comes dangerously close to committing a naturalistic fallacy, if not undergirded by practice-external criteria (which is ultimately what she does).

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Merely resorting to existing practice norms to assess what defective role performances amount to, only shifts the question from how to recognize an appropriate flow of information to the question of how to recognize those defective role performances and social relations. Against this backdrop, the central aim of this article is to shed light on this question without resorting to practice-independent first principles or far-reaching universalistic anthropological assumptions. For this, I will analyze the notion of “defective role performances and social relations” in terms of social pathologies.¹ Doing so has two advantages: First of all, it can draw on already existing concepts and distinctions, which help to categorize the different levels of analysis that exist in informational privacy research and situate the notion of “defective role performances” within them (Section 1). Second, those concepts and distinctions can serve as a basis for establishing a typology of phenomena with regard to deficient practices of informational privacy (Section 4).

Having thus set the scene in Section 1, I can move on to address the notion of “defective role performances and social relations” with respect to informational privacy. In Section 2, I employ the social-ontological recognitional model of privacy (SORM) that I developed in more detail elsewhere (Loh, 2018). The SORM has the advantage to evade some of the pitfalls of practice positivism: It can help explain what “adequate flow of information” and “contextual integrity” amounts to on a more fundamental social-ontological level, without recurring to practice-independent criteria.²

Following the insights gained from the SORM, in Section 3, I analyze *pathologies of informational privacy as the structural and systematic failure to recognize all bearers of constitutive roles (BCR) within a datafication practice as standard authorities*. This account not only gives an answer to why these practices are defective on a social-ontological level. Also, it helps to explain in more detail how deficiencies that prevent the mutual recognition of standard authority are structured in general. Finally, in Section 4, I distinguish four interrelated types of structural distortions which are often employed in diagnoses of social pathologies, and which are also at play in the context of datafication practices: Epistemic, cognitive, psychomotivational, and power-relational distortions.

This article brings together social ontology, practice theory, privacy theory, as well as methodological questions of ideology critique (in the form of theories of social pathologies), and applies them to datafication contexts. As a result, it can provide a theoretical—but still practice-dependent—foundation for empirical analyses of systematic and structural privacy infringements and the underlying issues of datafication. In this respect, the article contributes to the existing privacy research by *giving a functional account of these infringements in terms of social pathologies: They are pathological in the sense that they prevent the mutual recognition as standard authorities within datafication practices and thereby seriously weaken the reproducibility of these practices*.

In sum, the article’s original contribution is threefold:

1. It expands on the notion of informational privacy as a function of standard authority in datafication practices (the SORM), by showing how a misrecognition as standard authority will result in deficient datafication practices.
2. In framing these deficiencies as pathologies of informational privacy, it gives a functional account of social pathologies as a formal social-ontological criterion for certain structures of practices that are likely to seriously inhibit their reproducibility.
3. By offering a typology of social pathologies, it helps structuring and categorizing the findings on privacy infringements from empirical research.

2 | SOCIAL PATHOLOGIES

The task of this section is to motivate the usage of the term “pathology” by highlighting some of its features common to most theories of social pathologies. According to Honneth, one of the main differences between political and social philosophy lies in their perspective on social orders: Whereas political philosophy is mainly concerned with just or at least legitimate social orders, social philosophy primarily analyses “social processes of development, which must be understood as impairments of the possibilities of the ‘good life’ among members of society” (Honneth, 1996, p. 370). For Honneth, these possibilities—and with them, his theory of the good life itself—remain *formal* in the sense that they are not fleshed out substantially, but rather refer to the “social presuppositions” needed in the continuous process aspiring to the “goal of human self-realization” (Honneth, 1996, p. 388). “Social pathology,” for Honneth, is then the overarching notion for all different types of such impairments to the social presuppositions for human self-realization, whether they be further spelled out in terms of “reification,” “alienation,” “processes of instrumentalization and objectification,” “commercialization,” and so forth (Jaeggi and Stahl 2011, p. 697; my translation).

Although Honneth’s notion of pathology is ultimately tied to the “goal of human self-realization” (Honneth, 1996, p. 388), that is, pathological social structures are “ill” because they ultimately “make[] individuals ill” (Freyenhagen, 2018, p. 412), it is also *functional*: It captures structural and systematic failures of a social configuration to realize its own immanent norms, that is, the norms that are constitutive for its reproduction (Honneth, 2014, p. 3).³ In other words, the presuppositions Honneth talks about are social means of access to and integration in social structures, rather than universalistic anthropological needs. As a result, his idea of the good life can remain formal, since Honneth talks only about the (social) presuppositions for human self-realization, which in turn would then lead to a good life.

Understood in this way, the term “social pathology” not only opens the possibility to analyze social structures as part of “universal conditions of human self-realization” (Honneth, 1996, p. 389), but also to evaluate them from the perspective of their functioning as those conditions. Since pathologies are generated and sustained by the social structures within which they operate, they are *structural* disorders. At the same time, they are *systematic*: They are enduring and comprehensive in the sense that they affect all or a substantial portion of the participants of a given structure—oftentimes specific groups. In addition, claims of social pathologies “tend to concern social processes of *increasing deterioration*” (Freyenhagen, 2019, p. 16; emphasis added): The longer these structural disorders persist, the more severe the effects on the structure as well as the actors will become.

In this article, I will move Honneth’s understanding of “pathology” even further in the direction of a functional account. Expanding on Stahl’s notion of “standard authority” (Stahl, 2021, Chap. 7), I propose a *formal and functional account of social pathologies: I employ them as a formal social-ontological criterion for certain processes within social practices that are likely to seriously inhibit their reproducibility*.⁴ In Section 3, I will go into more detail what this means for datafication practices. For the moment, it may suffice to say that these practices will be analyzed as pathological when a certain number of interpretations are systematically ignored and can therefore not contribute to the reproduction of the practice. In a nutshell, this is what “recognition as standard authority” amounts to: The recognition of practice participants performances as competent attempts at interpreting the practice norms and their role obligations. Systematic misrecognitions of standard authority will then ultimately lead to pathological

conditions, such as rigidity (what may be called “reification”), detachment (what could be called “alienation”), and finally abandonment.⁵

Another way of framing the concept of standard authority is to say that it analyzes the impairments Honneth talks about in terms of *access*: A certain social structure can be called pathological, if—by the very nature of this structure—its norms cannot be adequately accessed anymore by some or all of its participants. “Accessed” in this regard is either meant *epistemically*, in the sense of being able to give consistent interpretations of those norms (e.g., through role performances), address conflicting interpretations adequately, and so forth. It can also be meant *politically*, in the sense of voice and contestation options that are limited through structural power asymmetries, which in turn give rise to persistent epistemic injustices, othering, oppression, and so forth.⁶

How participants relate to the social structure is explicated in this account in a way that has to do with the inner workings of these structures and their stabilization and normalization function. Therefore, the notion of normality that I am interested in is not so much dependent on historically contingent and culturally sedimented norms and social practices.⁷ Rather, “normality” refers to this more fundamental social-ontological way, in which the participants relate to this structure, regardless of the actual norms and practices.

In sum, for the purposes of this article social pathologies are structural and systematic barriers within a given social entity that prevent its participants from accessing (i.e., adequately addressing or effectively contesting) the normative structure of this entity (i.e., its foundational norms, role status, materialities, affordances, etc.). As such, they not only raise the potential for violent conflict or resignation, since some of the participants are structurally and systematically excluded from interpreting and contesting its normative framework. Also, the adaptability of the social entity is seriously impaired: As fewer and fewer participants can interpret its normative structure, this makes incremental change continuously more difficult. These “social processes of increasing deterioration” (Freyenhagen, 2019, p. 16) in turn affect its participants by way of anger or resignation even more. If not “treated,” they will eventually lead to the abandonment of the social structure or its substantial petrification, in which case it is upheld only through widespread domination and coercion.

Before I apply these basic assumptions to my SORM, however, I want to briefly highlight on which level of explanation it operates. In other words: What kind of question is the SORM answering within this framework of the wider notion of social pathologies? For this, I find Freyenhagen’s “basic grid” (Freyenhagen, 2019, p. 18) very helpful. He distinguishes between four levels of explanation with regard to social pathologies:

On the *symptomatic* level, theories describe and analyze actual instances of pathologies and how they manifest in the social world. Within the realm of informational privacy, this level is concerned with most of the sociological, media-theoretical, and psychological studies and findings. For example, analyses of consumer manipulation by tech companies such as Dark Pattern or Addictive Designs, all kinds of explanations for the ambivalent reactions to the Snowden and Manning leaks and the prevalence of the privacy paradox (Dienlin and Trepte, 2015), or critical accounts of the notion of “data ownership” (Prainsack, 2019) and “data sovereignty” are located on this level.

The *diagnostic* level, in contrast, is primarily focused on explicating what exactly makes these symptoms a social pathology. Theories on this level are mainly concerned with what constitutes adequate/functioning versus defective social relations in general, often in terms of self-realization, flourishing, adequate flow of information, consistency within the normative structure, coherence, and so forth. This is also the level that the SORM is addressing.

This level of explanation is to be distinguished from the *etiological* level, on which theories are primarily engaged with the more fundamental causes of these defective relations, such as the workings of socio-economic megastructures. With respect to informational privacy, there is a growing literature that reflects on the mechanics of a new “surveillance capitalism” (Zuboff, 2019) and its repercussions (Cohen, 2019; Sevignani, 2015; Webb, 2019).

Finally, on a *therapeutic* level, theories are focused on measures to counter or revert either some of the symptoms or the causes. Most of the time, the exploration of potential remedies is preceded by an analysis of symptomatic deficiencies. As a result, this level is rarely addressed all by itself.

In informational privacy research, many sociological, media-theoretical, and psychological analyses operate on the symptomatic level. Some of them will be used as examples later on in Section 4 to exemplify how the SORM can add to these symptomatic explanations on a diagnostic level. Especially, the difference between the symptomatic and diagnostic level helps spell out the *explanatory and scientific division of labor* between empirical social research and social theory with regard to the notion of social pathologies. So far, the term itself and its main assumptions explicated here are not employed in the realm of informational privacy research. As I have mentioned before, such an undertaking comes with various benefits:

1. It can unify the often disparate findings on the symptomatic level and give a more fundamental explanation in terms of the functioning of social structures by providing a social-ontological argument for what makes certain datafication practices inadequate.
2. It adds a normative dimension to the analyses on the symptomatic level, without resorting to normative standards that are external to the social structures in question, such as abstract ethical principles (well-being, autonomy, equality, the all-affected-principle, etc.) or universalistic anthropological claims.
3. It can show how a certain deficient social structure came about by diachronically analyzing social processes in terms of decline and deterioration. By doing so, it can get a different viewpoint on the sources of and potential remedies for these deficiencies.

3 | A SOCIAL-ONTOLOGICAL RECOGNITIONAL MODEL OF INFORMATIONAL PRIVACY

In the previous sections, I referred more generally to “social structures,” “social entities” or “social relations” as being defective or becoming pathological. At this point, however, it is important to be more specific: In order to make use of the SORM, I analyze these social phenomena in terms of *social practices*. This means that in my usage, pathologies do not amount to “diseases of *society*” (Honneth, 2014; emphasis added), but are rather confined to structural and systematic deficiencies of types of practices – primarily datafication practices.⁸

This has several advantages: First, such a focus does not have to presuppose that structural and systematic barriers to access always affect society as a whole. Rather, it can analyze pathologies on a more fine-grained level as pertaining to certain practices or types of practices. Second, it does not need to argue for macrolevel deficiencies, which inevitably bring with it the difficulties of normative arguments with regard to societal structures (Freyenhagen, 2018, p. 422). Third, a focus on social practices does not favor or preclude any macro-social analyses. As illustrated above, my account operates on the diagnostic level that is independent of explanations on the etiological level.

While I cannot go here into the details of specific accounts within the broader field of practice theory (Bourdieu, 1976; Celikates, 2018; Schatzki, 1996; Spaargaren et al., 2016), I quickly want to highlight six main features of the concept of a social practice, which I have motivated in more details elsewhere (Loh, 2018; 2019, Chap. 2.1): According to this definition, social practices are (1) repeated, coordinated patterns of action that (2) follow certain rules, which (3) are at least partially internalized as “Knowing-Hows” (Ryle, 1949, Chap. II) and routinely performed. These practice norms will (4) surface and become thematic, if the expectations of individual actors with regard to the performances of other actors are frustrated due to differing norm interpretations. This mismatch in expectations of behavior evokes “reactive attitudes” (Strawson, 1962, p. 66), which are typically expressed in the form of criticism with regard to the other actor’s role performances. The mutual expectations of behavior are thus (5) “generalized” (Mead, 1934) in social roles and their associated role privileges and obligations. These role obligations confer the first-order deontic status of “role bearer” on the participants, in the sense that they incur certain role privileges and are expected to discharge their role obligations. In addition to this first-order deontic status, the fact of conflicting interpretations points (6) to the second-order deontic status of a “standard authority” (Stahl, 2021, Chap. 7). Such conflicts may arise either in the form of differing performances, or in the form of explicit criticism of the performances of others.

The notion of *standard authority*, as developed by Titus Stahl, is a social-ontological explanation about how norm interpretations typically work within social practices. It claims that, beyond the respective role obligations (first-order deontic status), actors within a given practice incur a kind of “meta-obligation to respond to possible criticisms” of their own role performances (second-order deontic status).⁹ Since role performances are themselves nothing but actor’s interpretations of their role obligations (first-order deontic status), criticisms of these performances are in essence interpretations of these interpretations. Recognizing each other as standard authorities means that the other actors within the practice are recognized as having the authority to perform these kinds of meta-interpretations (second-order deontic status).

This recognition is mutual. Therefore, all actors within the practice are authorized to interpret the norms of that practice, and not just the norms of their own role. “Authorized” then means that it gives the actors performing such criticism a normative force: The addressees have an obligation to respond to these criticisms. This authority is “standard” in the sense that it is independent of the authority their role conveys them. For example, even though within the practice of the court room the judge has a very different *role authority* than the defendant, both hold the same *standard authority* to criticize each other’s role performances. They obtain this authority simply by virtue of being actors within a given practice.

“Standard” in this sense is a shortcut for a basic deontic power to interpret and criticize the practice norms and the behavior of the other actors, which is equally distributed among all actors of a given practice. The notion of standard authority therefore is not a kind of natural or transcendental right,¹⁰ but rather a social-ontological explanation of how social practices reproduce and adapt through interpretations-as-performances.¹¹ As such, it does not entail the “right to rule” (Raz 1986) in the sense of having one’s interpretations and criticisms always complied with. Rather, individual criticisms will typically change practice norms incrementally by a general change in interpretations, if and when other practice participants gradually pick up on these criticisms. Instead of a “right to rule” one could call it a “right to access” in the sense of epistemically assessing, performatively interpreting and contesting practice norms, as well as criticizing other’s interpretations.

By way of example consider the practice of doctoring: A doctor D asks her patient P to describe the history of the medical condition that brings him to her office. Hereby, she is discharging some of her role obligations to thoroughly examine and question patients (first-order deontic status). If P follows suit, he implicitly accepts D's interpretations of her own role as a doctor. However, by responding: "What? You can't tell me anything!," he exercises his second-order deontic status of standard authority and challenges D's interpretations. D now incurs the meta-obligation to justify her performance, maybe by saying: "Do you want me to help you or not? I am your doctor; I need to know your medical history in order to properly diagnose your illness."

In doing so, doctor D acknowledges patient P's standard authority. As we will see in the next section, this acknowledgment can be insincere. In some cases, the meta-obligation is not even discharged at all, however superficial. Were P to add to his criticism: "Doctors shouldn't know anything about patient's medical records anyway," he would exercise his standard authority on a second level, explicitly aiming at the normative structure of the doctoring practice per se, and not solely at the particular role performances of D. Also, these interpretations can be belittled, ignored or suppressed by the other practice participants, resulting in a misrecognition of standard authority.

The notion of social practices serves two purposes in this line of argumentation: On the one hand, it identifies who should recognize whom as a standard authority.¹² Until now, I talked more generically about "actors" of a practice. With the basic outline of "standard authority" in place, I am able to specify this: "Actors" are *bearers of constitutive roles* (BCR) within a practice. By "constitutive" I mean all sets of role types, without which the practice could not be instantiated. For example, the practice of doctoring may differ considerably in its instantiations. In order to be considered as "doctoring", however, it needs at least the roles of doctor and patient. Such roles are constitutive in the sense that they define a certain practice (Searle, 1969, Chap. 2).

On the other hand, the concept of social practices opens up the possibility to identify contexts of informational privacy by analyzing them as *datafication practices*.¹³ A datafication practice is a practice that is defined by at least two constitutive role types: The role of data-collecting subject and the role of datafied subject. Typically, datafication practices do not stand on their own, as they require the datafied subject to do something within another practice. Think about the example of the doctor, where the datafication practice is part of a larger doctoring practice. Other examples include interacting on social media, buying or selling online, walking through a CCTV-covered area, and so forth. As a result, datafication practices are almost always sub-practices of other larger practices.

In a wide sense of "datafication," all social practices entail a datafication sub-practice. As repeated, coordinated patterns of action (cf. the first of the six features I mentioned earlier), they instantiate "symbolic interactions" (Blumer, 1969) that require perceiving, interpreting, and reacting to performances of other actors. Datafication practices entail not only norms about which data the actors of the main practice may gather—Nissenbaum's "appropriate flow of information"—but also how they should go about doing this. While the doctor may touch her patient in order to examine him, commuters on a train typically may not do this to gather information about their environment. Also, excessive staring, intentionally listening in on conversations, etc. are at least frowned upon or even directly challenged.

In a narrower sense, however, "datafication" means a systematic collection, storage, processing, and dissemination of data not only for the purpose of making sense of one's environment, but to categorize, infer other data, make prognoses, and so forth. Studies and findings

on the symptomatic level are typically concerned with this narrower sense and especially interested in the digital means to collect, process and visualize data. In order to give a more precise explanation for these datafication mechanisms and highlight the specific concerns of digital datafication, I will limit the investigation to this narrower sense of datafication. Nonetheless, datafication practices in this narrow sense are also mostly subpractices to other (oftentimes digital) practices.

In sum, the norms that specify the “What” and “How” of datafication belong to the datafication (sub)practice, and are expressed in the role obligations of the data-collecting subjects and datafied subjects. Accordingly, the SORM claims that *a practice is informationally private, if and only if within the corresponding datafication practice(s) all BCR recognize each other as standard authority*.¹⁴ Informational privacy is therefore not so much spelled out in terms of the instantiation of certain privacy norms in practices per se, but rather by assessing the social-ontological structure of datafication practices. Since what “private” means will differ considerably across practices, the “contextual integrity” (Nissenbaum, 2010, p. 149) of a practice is established and maintained by the fact that all BCR in the corresponding datafication subpractice recognize each other as standard authority. As I have argued above, this means that all data-collecting and datafied subjects mutually recognize each other’s authority to criticize the role performances of the others, and by virtue of this the very structure of the datafication practice.

In an informationally private practice, all datafied subjects have the authority to question, contest, and demand justification for the systematic collection, storage, processing, and dissemination of their data due to their standard authority in the corresponding datafication subpractice. By virtue of this authority, they effectively interpret the practice, and can thereby reproduce but also change it. This does not mean that their authority has to be always complied with in order to call a datafication practice “private.” What amounts to an “appropriate flow of information” within the practice, still depends on the generally accepted practice norms. The SORM only explicates what it means to be “generally accepted” by way of the notion of standard authority.

From this it becomes clear that the notion of standard authority does not refer to an ideal discourse situation, in which all participants are included in an egalitarian fashion (Habermas, 1986; Habermas, 2001).¹⁵ Nonetheless, as the doctoring example shows, oftentimes conflicting interpretations will be made explicit (Brandom, 1998; Celikates, 2018). In pathological practices, it is often this very ability of making it explicit, which is distorted by misrecognizing a certain portion of the practice participants as standard authority.

4 | SOCIAL PATHOLOGIES AND THE SORM

From what has been said so far, we can break down the notion of pathologies of informational privacy that the SORM advocates in more detail:

These pathologies amount to the structural and systematic failure of at least some bearers of constitutive roles (BCR) within a datafication subpractice to mutually recognize each other and all other bearers of constitutive roles as standard authorities.

This recognition entails, as I have laid out in the last section, (a) the authority to contest the role performances of the other BCR within the datafication subpractice; and (b) demand justification for their interpretations of their own role obligations. “Structural” and “systematic” refer, as mentioned in Section 1, to enduring and comprehensive deficiencies that typically affect all or a substantial portion of actors—or, as we can now specify—one or more types of BCR within the datafication subpractice. These deficiencies are generated and sustained by the normative structure of the subpractice.

By transferring Stahl’s account of standard authority to the realm of informational privacy, the SORM gives an answer on the diagnostic level, that is, to the question “What is a social pathology of informational privacy?”. Nonetheless, we still have to assess *why* these structural and systematic misrecognitions of standard authority constitute a social pathology. The answer is tied to the inner workings of social practices: They depend on this mutual recognition (a) for their ability to stabilize mutual expectations of behavior; and (b) their ability to incrementally adapt the content of these expectations. In social practices, participants constantly criticize each other and thereby interpret, ascertain, and normalize role behavior (Berger & Luckmann, 1967; Giddens, 1984). These interpretations-as-performances reproduce the practice, in the sense of replicating but also incrementally changing it.

In this regard, the mutual recognition as standard authority marks the transition from regular to rule-bound behavior: It captures the normative element of social practices that is responsible for their social integration (Habermas, 1986, Vol. 2; Lockwood, 1964), and therefore distinguishes them from coincidentally aligned behavior on the one hand, and coordination by mere coercion on the other. Without this recognition, social practices as defined in Section 2 could not exist, in the sense that they would lose their reproducibility in the long run, that is, they could not be internally stabilized and could not adapt to changing norm interpretations.¹⁶ Since role performances would not be recognized as competent attempts at interpreting the practice rules, it is hard to see how individual beliefs about practice norms and role obligations can transform into commonly held beliefs that this is the “right way to φ ”. Without such beliefs (in the form of internalized Knowing-Hows), no common practice that normatively binds its participants would emerge (Hart, 1994, p. 89).

The only form of stabilization through social integration that could be achieved without assuming a mutual recognition as standard authority, is through a coercive or coordinating force from outside the practice. Moreover, the constant back and forth between interpretations-qua-performances not only explains how role obligations evolve and normalize, but also how they change over time. In sum, mutual recognition as standard authority is a necessary condition for reproducibility (in the sense of integration, stability, and adaptability) and thereby for the functioning of datafication practices.

For these reasons, a structural and systematic misrecognition of (mostly a group or type of) BCR amounts to a pathology: *The patient (i.e., the practice) is not dead, but—to stick with the analogy—becomes sick*, when a certain number of interpretations are systematically ignored and can therefore not contribute to the reproduction of the practice. In addition, the possibility to explicate role interpretations and expectations of behavior is considerably diminished, limiting the meta-practices of critique in their ability to normalize behavior and enable social change. This becomes even more problematic, when such structural and systematic misrecognitions repeatedly concern the same group or type of BCR. In such cases, the practice effectively excludes these performances from the pool of interpretative attitudes.

These misrecognitions result in “social processes of increasing deterioration” (Freyenhagen, 2019, p. 16), which can persist over long periods of time. As they build up,

interpretative tensions within a practice are less and less likely to be resolved, since an increasing amount of these interpretations is no longer considered as a competent attempt at adequately discharging role obligations. If not “treated,” this will not only lead to the petrification of the practice, but also to rising potential of violent conflict or resignation within it. In order to normatively bind the participants long term, the normative structure of the practice must be considered legitimate among its participants. Such a legitimacy belief will most likely dwindle at least among those no longer recognized as standard authority. Therefore, mutual recognition as a standard authority is also important for social integration from a socio-psychological perspective.

Ultimately, the BCR will likely try to avoid or abandon the practice in question. Before this happens, however, a pathological practice can persist for a long time. Its reproducibility diminishes, but does not yet dissolve entirely. Pathological practices can oftentimes even appear more stable in early phases of the pathological process, as they first become more rigid and less adaptable to change. If the structural and systematic misrecognitions are ameliorated or removed, such a process of decline and deterioration can be stopped or even reversed. Whether a given pathological practice should rather be treated or abandoned, however, is nothing that the SORM—or any analysis employing the notion of social pathologies—can answer. This calls for an explanatory division of labor, either through practice-external arguments that evaluate the practice from first principles or a universalist anthropology, or through a functionalist account on a societal level that assesses the practice with regard to its function within a larger social structure.¹⁷

Such a social-ontological explication of pathologies shares many commonalities with other forms of “Ideologiekritik” (Geuss, 1981) or critical social theory in general, but also differs in important aspects. Most importantly, it focuses on the inner workings of social practices (in this case datafication practices), instead of social macro structures. In this respect, it operates on the diagnostic rather than the etiological level. The focus on social practices has the advantage that single practices or types of practices (e.g., datafication practices) can be analyzed as pathological without situating them in a societal macro trend. As a result, the SORM is agnostic with respect to etiological macro explanations such as class struggles, which for example, underlies Bourdieu’s Habitus concept (Bourdieu, 1984), or the dichotomy between “system” and “lifeworld,” as championed by Habermas (1987, Chap. VI).

We can now see why the SORM claims that within a practice all BCR *should* recognize each other as standard authorities: This is, in short, how social practices stabilize, reproduce, and evolve via the possibility to criticize, normalize, and incrementally change role behavior. In this regard, the account of social pathologies based on the SORM entails a *weak normativity*. It makes a claim on the adequacy of social practices based on the mechanics of social integration and norm adherence, rather than on some kind of external (moral, anthropological, or macrolevel functionalist) criteria. Beyond this normative claim, however, the SORM is agnostic to whether we as a society or life-form should instantiate or reproduce certain practices, and how the role obligations within them should be spelled out. In a methodological division of labor, the latter is subject to claims that work on a stronger normative impetus.

With this weak normativity, the SORM takes a different approach from either a “practice positivism” (Applbaum, 1999, p. 51) that focuses on descriptively assessing the embedded norms and role obligations within a given practice, or an evaluation of the practice according to normative criteria that may not be part of these practice norms and role obligations.¹⁸ Such an “external criticism” (Jaeggi, 2019, Chap. 5) lies at the heart of most moral assessments of datafication practices that employ moral principles or values such as justice, autonomy,

well-being, and so forth (Roessler, 2004; Solove, 2008), or refer to a minimalist moral anthropology (Nussbaum, 2007; Pogge, 2008).¹⁹

By mounting stronger normative claims, especially the moral and anthropological reasonings have the advantage that they do not have to rely on locating symptoms of “defective social relations” (Roessler & Mokrosinska, 2013, p. 780), nor on the diagnosis of these as misrecognitions of standard authority. Also, they do not have to contend with the reality of social practices, which can at times become considerably defective, before their stability is seriously compromised (cf. Section 4). This is also the reason, why Nissenbaum herself reverts to “fundamental social, political, and moral values” (Nissenbaum 2004, p. 128), in order to normatively back up her own version of practice positivism as “practice conservatism” (2010, p. 169).²⁰ On the other hand, relying only on such a weak normativity has some significant advantages of its own. First of all, the SORM can remain agnostic with respect to the question why we should value privacy and informational self-determination, and therefore accommodate culturally variant answers to the value of privacy. In contrast, moral theories typically have to justify their results with respect to more abstract moral principles or values, or anthropological accounts with reference to basic human needs or interests. In consequence, they perforce need to answer the question of why we should value privacy—be it as a prerequisite for autonomously forming our personal identity (Roessler, 2004), our ability to form intimate relationships (Gerstein, 1978), our potential to become a politically responsible citizen (Arendt, 2006), or our democratic right to freely gather and politically participate (Stahl, 2016).

Second, as I said above, especially moral justifications typically start with (or revert back to) fairly abstract principles. In many cases, this requires a good amount of argumentative footwork to connect these to actual symptoms of datafication pathologies, and oftentimes can involve some argumentative stretches. As for example Hegel argued against Kant, this may result in opposing moral duties that are nonetheless equally well supported by the argumentative chain (Houlgate, 2008, §135). In such cases, the grounding of the moral analysis in abstract moral principles ultimately fails. Even if one does not buy into this argument, there are still the “burdens of judgment” (Rawls, 2005, p. 54) to contend with, that is, the fact that there may very well be “reasonable disagreements among reasonable persons” due to the “many hazards involved in the correct (and conscientious) exercise of our powers of reason and judgement in the ordinary course of political life” (Rawls, 2005, pp. 55–56).

For these reasons, such abstract principles with their long chain of argumentation also have a harder time to connect to the experiences and internalized role obligations of the practice participants. As a consequence, they may not be viewed as compatible with their legitimacy beliefs and can therefore not provide any empowerment for them. Oftentimes, they rely on some kind of universalist anthropological claims that have been criticized as “power-bound constructions” (Honneth, 1996, p. 393).

Finally, the SORM is much better equipped to explain why different privacy settings pertain to different contexts. By explicating “contextual integrity” on a social-ontological level, it can also regard contexts with high or very asymmetrical information flows as private, as long as all BCR are recognized as standard authorities. Moral theories of privacy, in contrast, have to resort to (often highly contested) value conflicts between privacy and other values and resolve them accordingly.

This is not to say that these two methodologies are exclusive. Rather, there is arguably a certain *division of labor* between them: While moral theories argue what the practice participant's legitimacy beliefs should be, the SORM and other instantiations of “Ideologiekritik” (Geuss, 1981) show why these beliefs are either manipulated or not being recognized at all. The

SORM shows that the answer to why privacy is valuable does not necessarily have to be given in terms of justice, autonomy, intimacy, and so forth, but can also be given in terms of the reproducibility of datafication practices in the long run. “Reproducibility” is not a value per se and also seemingly stable datafication practices can be criticized on other terms (e.g., justice, autonomy, intimacy). However, intact relations of mutual recognition as standard authority within such stable practices give a strong *prima facie* indication that their structure is open to reflection, contestation, and change, and enables the participants to determine for themselves (via their performances-as-interpretations) whether to reproduce or abandon the practice.

In other words: In “healthy” practices, the participants are empowered to interpret, contest, and thereby ultimately change their practice according to their interpretations. Conversely, demonstrating that a certain practice is pathological provides one sufficient (*pro-tanto*) reason among others for morally criticizing said practice.²¹ Pathologies, however, are not a necessary reason for moral critique: There are many other reasons for criticizing practices even though they do not exhibit any pathologies.

5 | PATHOLOGIES OF INFORMATIONAL PRIVACY

Having a working account of social pathologies of informational privacy in place, we can now assess more clearly its social-ontological repercussions:

Structural and systematic misrecognitions of bearers of constitutive roles (BCR) within a datafication subpractice will ultimately result in deficient processes of normalization, stabilization and normative change within that practice – and thereby an increasing social disintegration of the practice.

As the datafication subpractice becomes more and more instable and at the same time less and less adaptable to change, the misrecognized BCR will gradually lose their belief in the legitimacy of the practice norms. With it, they lose the sense of obligation that is attached to their respective roles. Sooner or later, they will reproduce the datafication practice only as a “*modus vivendi*” (Rawls, 2005, Lecture IV), that is, by sheer necessity or solely to further their own interests.

At various stages of this deterioration process, the ongoing disintegration may not be easily perceptible. On the contrary, pathological practices may seem surprisingly stable on a first glance, as they become more rigid and less adaptable to change. A misrecognition as standard authority is oftentimes accompanied by reactions of resignation or avoidance, rather than active contestation and demands for change. Typically, many different and contrasting processes will take place at the same time, creating their own divides within pathological practices and thereby potentially exacerbating the pathology. In many cases, the diagnosis “social pathology” requires a social theory that analyses and evaluates the empirically available symptoms.

In this respect, it is important to note that pathological practices are (to stick with the analogy) “sick”, not yet “dead”. The disintegration may just have begun, or it may take a long time, depending on the circumstances. As human patients can recover from an illness, so can social practices - if the structural and systematic misrecognitions are adequately dealt with. However, the more rigid a practice becomes and the longer its “illness” lasts, the more likely it is that the practice will disintegrate with severe ruptures. Therefore, addressing social pathologies not only empowers the misrecognized, but can also help mitigate violent social change.

Pathologies of informational privacy tend to be one-sided: It is far more likely that within a datafication subpractice, data-collecting subjects fail to recognize some or all of the datafied subjects as standard authorities than the other way around. As already mentioned in Section 1, there is a differentiated and very productive sociological, media-theoretical, and psychological research that focuses on the actual techniques (e.g., Dark Pattern, Addictive Design), narratives (e.g., Data Sovereignty/Ownership), and repercussions (e.g., cognitive overload, ego depletion, network, and bandwagon effects).

This research is mainly concerned with the symptomatic level, as briefly mentioned in Section 1. The same goes for Nissenbaum-style practice-theoretical accounts of privacy, as they assess whether and how the existing privacy norms within a given practice are breached in terms of inappropriate flow of information. In contrast, the SORM operates on the diagnostic level, by providing an explanation as to why these techniques, narratives, and repercussions are symptoms of a social pathology and what makes datafication practices that contain them pathological. In what follows, I will use some prominent examples from the research on the symptomatic level in order to:

1. *show the explanatory potential of the SORM*. For this, I will demonstrate in what sense all of these examples constitute structural and systematic misrecognitions of the datafied subjects; and
2. *to establish a taxonomy of pathologies of informational privacy*, in which I distinguish between four types of potentially pathological distortions: epistemic, cognitive, psychomotivational, and power-relational distortions.

Epistemic distortions within datafication practices not only include the big scandals of mass surveillance by the National Security Agency (NSA) and other secret services, or the misuse of customer data such as in the Cambridge Analytica scandal. Even more important for the diagnosis as pathologies are (a) the day-to-day epistemic distortions that result from keeping secret the inner workings of the data economy (Srnicek, 2016; Zuboff, 2019); (b) the necessary computer science knowledge in order to really understand big data aggregation, profiling, and deanonymization (Cimpanu, 2020; Kreiss, 2012); as well as (c) the legal expertise needed to apprehend privacy policies and General Terms and Conditions.

In these instances, the data-collecting subjects disingenuously pretend to recognize the datafied subjects as “super-skilled performers,” while in reality not recognizing them at all (Loh 2019). Only a small subportion of all datafied subjects can be assumed to have the necessary skills to really understand the role performances of the data-collecting subjects. Therefore, the datafied subjects for the most part cannot interpret these role performances adequately. The recognition of the datafied subjects as standard authorities is merely a pretense. It is not only that the data-collecting subjects hide important information from the datafied subjects. Also, from a social-ontological perspective, they perform their roles in such a way that superficially seems to satisfy their obligations while in effect not discharging them at all.

With regard to *cognitive distortions*, there is not even such a pretense to recognize the datafied subjects as standard authorities anymore. Instead, their ability to effectively interpret the role performances of the data-collecting subjects is impaired or rendered impossible by the very structure of the datafication subpractice that the data-collecting subjects set up. This is accomplished for example by hiding the datafication behind the superficial structure of social engagement, such as “like-buttons” (Gerlitz & Helmond, 2013) or the disingenuous call to “authenticity” (Seubert & Becker, 2019, p. 933) and self-disclosure. Other strategies include transparency-by-design strategies known as “dark patterns” (Brignull, 2013),²² such as hard-to-

find privacy settings or design elements deliberately modeled to confuse users and trick them into choosing the less private settings (Mathur et al., 2019).

The problem here is not so much that the datafied subjects in general do not know that they are in the role of datafied subjects, as with the epistemic distortions. Rather, they are made unaware of this fact by a clever concealment of the datafication behind a totally different practice. As a result, the datafied subjects are led to believe that they instantiate a completely different practice. Their performances and interpretations are void of practical implications, as they pertain to a practice that does not exist. In this sense, there never was an intention to recognize the datafied subjects as standard authorities of the datafication subpractice in question. Rather, their (pretended) recognition as standard authority is tied to a practice that does not exist in this form.

While similar in appearance, *psychomotivational distortions* differ from cognitive distortions in that they primarily aim at exploiting psychological effects that are known to motivate or discourage consumers from certain behavior (Sher, 2011; Susser et al., 2019). In general, nudges and gamification mechanisms fall under this category. Strategies include “addictive designs” (Eyal & Hoover, 2014), where services are modeled to keep the user engaged, for example through infinite-scroll news-feeds, constant update notifications, the auto play function for the next video, or prioritizing highly engaging content (click-bait). Even if these motivational effects are not instantly successful in catching the user’s attention and altering their privacy behavior, some authors claim that in the long run they may result in “ego depletion,” that is, the depletion of the “limited ‘reservoir’ of self-control” (Veltri & Ivchenko, 2017, p. 240) by constant exercise of this self-control.

From a social-ontological perspective, these cases are pathological, because the data-collecting subjects are actively trying to manufacture the datafied subjects’ interpretations of the practice norms in a systematic manner. The motivational design mechanisms employed by platform and app designers are aimed at manipulating the datafied subjects in such a way that their performances cannot be regarded as expressions of their standard authority anymore.²³ “Manipulating” here means that instead of being able to perform their roles without undue emotional or motivational interference with their practical judgment,²⁴ they are treated “as though [they] were some sort of object or machine” (Noggle, 1996, p. 44). The data-collecting subjects showcase a complete disinterest in their interpretations-qua-performances and thereby demonstrate that they do not recognize them as authorities with regard to the norms of the datafication practice.

All these distortions exhibit—and are only possible through—serious power asymmetries within the datafication practices. Nonetheless, there are some mechanisms that point to unique *power-relational distortions* separate from the other three types. One especially prevalent mechanism is the tendency to create “platform monopolies” (Sevignani, 2015, Chap. 3). Especially social media platforms have to acquire a critical mass of users in order to (a) properly function as a social network connecting individuals in various ways (Boyd & Ellison, 2007), and (b) benefit from the “behavioral surplus” of their users and create “surveillance assets” (Zuboff, 2019, p. 126). As a result, they have an intrinsic motivation to try to maximize their own market share and monopolize the service they are offering (Ezrachi & Stucke, 2016).

This power-accumulating tendency through monopolization is exacerbated by the growing necessity to participate in these platforms in order not to be excluded from social, cultural, and economic life (Ragnedda, 2017). The more social media platforms are regarded as being without any alternative (Srnicsek, 2016, p. 33), the more likely their users can be said to be committing an “objectification mistake” by taking the platform and the connected datafication subpractice “to be a natural process outside their control” (Geuss, 1981, p. 14).

Such analyses of power-relational distortions on the etiological and symptomatic level can be complemented by explanations on the diagnostic level: From a social-ontological viewpoint, this kind of objectification and the underlying deception (or self-deception) of the datafied subjects comes down to a confusion of levels of authority: While within datafication practices there is a clear (and lamentable) power asymmetry in the role authorities between the roles of datafied and data-collecting subjects, underlying this asymmetry is a more fundamental symmetry in the form of standard authority. By objectifying the datafication practice, the datafied subjects implicitly assume that they do not have this standard authority (or wrongly assign it a much smaller scope) and are instead only left with the respective role authorities. This constitutes a misrecognition of the datafied subjects as standard authorities within the datafication practice. If these misrecognitions are systematic and structural, we are talking about a social pathology of informational privacy.

These examples show that the SORM is capable of explicating symptomatic as well as etiological analyses on a diagnostic level as structural and systematic misrecognitions of the datafied subjects with regard to their standard authority. According to this social-ontological explication, all types of distortions have two features in common: (A) There is a genuine disinterest in the performances and interpretations of a certain group or type of role bearer (in our case, the datafied subjects) that amount to the misrecognition of their standard authority.²⁵ (B) These misrecognitions manifest themselves in (implicit or explicit) attempts to deceive, misinform and manipulate the datafied subjects, in order to manufacture their interpretations. These are “efforts not only to sell, convince, persuade, protect, triumph or condemn, but to make claims about what these technologies are and are not, and what should and should not be expected of them” (Gillespie, 2010, p. 359).

By explicating these deceptive and manipulative structures of datafication practices as social pathologies, the SORM sets itself apart from more standard ethical accounts of privacy and informational self-determination: There is a focus on the functioning of the practice rather than on the moral assessment of its participants' actions. While these deceptions and manipulations may very well also be morally wrong, they are also detrimental for social integration and in this sense socially divisive.

The SORM also takes a different approach than moral criticisms that start from the “ideal of informed consent” (Eyal, 2011; Maclean, 2009). Rather than focusing on a notion of autonomy (Dworkin, 1988, Chap. 7) rooted in a “liberal tradition of individualism” (Helm & Seubert, 2020, p. 195), the SORM analyses the datafied subject's performances, which are based on internalized Knowing-Hows and therefore mostly habitual and routinely executed. As such, they are expressions of more implicit legitimacy beliefs sedimented in the practice norms and internalized by the performers, rather than deliberate self-reflections on what to do. Accordingly, the four types of distortions are pathological not primarily because the datafied subjects cannot give informed consent in any meaningful sense. Rather, the SORM claims that they are also prevented from adequately accessing these internalized norms—either epistemically or politically—and therefore from adequately interpreting their own roles and the role performances of others.

6 | CONCLUSION

This article set out to answer the question of what “defective role performances and defective social relations” in the context of informational privacy are, why they are defective and for

whom. The central aim was to stay within the theoretical framework of practice-based theories of privacy such as Nissenbaum's and shed light on this question without resorting to practice-independent first principles or far-reaching universalistic anthropological assumptions, as for example Nissenbaum's own account has to. At the same time, the objective was to avoid a first-level "practice positivism" that faces objections of moral relativism or the danger of committing a naturalistic fallacy that comes with a "presumption in favor of the status quo" (Nissenbaum 2004, p. 127). The article did so by applying the notion of social pathologies to the context of informational privacy. There are three reasons for this: (a) to unify the analyses on the symptomatic level by a more fundamental explanation, (b) to add a normative dimension to them, and (c) to focus this normative dimension on the dynamic of social processes rather than on the fixed status of social justice.

Using the *SORM*, the article diagnoses these kinds of pathologies as "illnesses" of datafication practices: They are structural and systematic failures of the BCR within a given datafication practice to recognize each other as standard authorities. This is a formal social-ontological explication of what "defective role performances and defective social relations" amount to in contexts of informational privacy. In the reality of datafication practices, this translates to the fact that in many cases the data-collecting subjects misrecognize the datafied subjects in their standard authority to question, contest, and demand justification for the systematic collection, storage, processing, and dissemination of their data.

In essence, this is a *functional account on the level of social practices*: As the interpretations-as-performances of the datafied subjects are structurally and systematically disregarded, interpretative tensions within the practice become harder to resolve. This in turn enhances the potential for violent conflict or resignation among the participants who are not recognized. As a result, the practice slowly loses its reproducibility, that is, its cohesive and normative force to normalize, stabilize and change internally. If not "treated," the practice will petrify and successively be abandoned.

Such an account entails a *weak normativity*. It makes a claim on the adequacy of social practices based on the mechanics of social integration and norm adherence, rather than on some kind of external (moral, anthropological, or macrolevel functionalist) criteria. Beyond this normative claim, however, the *SORM* is agnostic to whether we as a society or life-form should instantiate or reproduce certain practices, and how the first-order norms within those practices should be spelled out.

Therefore, this account assumes a *methodological division of labor* between different types of explanations and justifications. On the one hand, the *SORM* can systematize the empirical studies and findings on the symptomatic level and add a normative dimension to them. At the same time, it needs these findings as a starting point from which to describe "flows of information" as pathological. Such a description is *prima facie* self-contained in the sense that it gives rise to sufficient reasons for moral criticism.

On the other hand, this normativity is restricted to the functioning of datafication sub-practices and their respective main practices. It therefore should be complemented by practice-external theories (whether they are arguing from abstract moral principles, universalist anthropology, or macrolevel functionalism), in order to add another angle from which to assess whether pathological practices should be treated or abandoned. In this sense, analyzing practices as pathological marks a sufficient reason for moral criticism, but not a necessary one. There are other reasons for moral criticism aside from pathologies.

By developing a *typology of social pathologies*, this article helps structuring and categorizing the findings on privacy infringements from empirical research on the symptomatic level. It

explains these findings on a diagnostic level and thereby connects the symptomatic level of explanation with the etiological level. Showing that the SORM is able to account for the phenomena at the symptomatic level, it provides social-ontological tools for an immanent critique (Jaeggi, 2019; Stahl, 2021), not only of informational privacy practices, but also the underlying surveillance capitalism (Zuboff, 2019) and data-driven economy (Ezrachi & Stucke, 2016).

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ENDNOTES

- ¹ I am indebted to an anonymous reviewer for making me aware of some of the associations connected with the term “social pathology.” Despite its “ugly history of abuse” (Freyenhagen, 2018, p. 413), I think the term is still useful as it not only connects to a certain tradition of social thought, but can capture “social processes of increasing deterioration” (Freyenhagen, 2019, p. 16). It is also the more general and technical term associated with the variety of phenomena I am interested in, which fits well with my usage as a formal social-ontological criterion.
- ² In contrast, Nissenbaum’s own account incorporates practice-positivist elements (her “practice conservatism”) as well as practice-external “fundamental social, political, and moral values” (Nissenbaum, 2004, p. 128), but ultimately falls back to the latter in order to normatively assess the (moral) appropriateness of flows of information within practices.
- ³ Unfortunately, I cannot go into more detail here as to what this entails. In short, “constitutive” are norms that structure a social entity in a certain ethical way, without which the entity would be abandoned by its participants. For a more detailed account (cf. Loh 2018; Jaeggi, 2019, Chap. 6.2).
- ⁴ My primary focus on the reproducibility of practices—together with the aim to explain how pathologies of informational privacy can be conceptualized from a social-ontological viewpoint—sets my account (the SORM) apart from his more normative account.
- ⁵ Abandoning practices may not always be a bad thing, for example, when the practice is morally objectionable. I will say more on this later. I am grateful to an anonymous reviewer for highlighting this point.
- ⁶ Since these analyses work on the social-ontological level of integration into and reproduction of a social practice, they are not tied to ideas of transparency or democratic control.
- ⁷ If this were the case, “defective role performances and defective social relations” would be merely culturally relativistic and at best could be criticized by way of an “internal critique” (Jaeggi, 2019, Chap. 5) as inconsistencies or incoherencies internal to the normative structure of social interactions.
- ⁸ This is not to say that the reasons for these structural deficiencies cannot be analyzed by way of larger defects within bundles of practices, life forms or societies. In this article, however, I am mainly interested in contexts of informational privacy, which I identify as datafication practices. In Freyenhagen’s terminology, I focus on the (practice-theoretical and social-ontological) *diagnosis* of pathologies of informational privacy, rather than on their (societal and socio-economic) *etiology*.
- ⁹ This is where the SORM departs from classical practice theory, which typically does not address this kind of second order authority and obligations.
- ¹⁰ I am grateful to an anonymous reviewer for pushing me on this point.
- ¹¹ This is where my more functional adaption of Stahl’s standard authority differs from his more normative account. While we both agree that the structural and systematic misrecognition of some actors as standard authority seriously impairs a practice, we disagree about the exact normative status of these impairments and their consequences (cf. Section 3).

- ¹² More on the nature of this “should” as a weak normative claim in Section 3.
- ¹³ While Stahl himself is not concerned with privacy at all, his notion of standard authority is generic and can be used to investigate any practice or type of practice. Transferring it to datafication practices, the SORM can explicate their normative structure in terms of standard authority.
- ¹⁴ At first glance, this seems to entail the counterintuitive case, in which all information is accessible to everyone, while all bearers of constitutive roles nonetheless recognize each other as standard authorities. In this case, the SORM would characterize this practice as private, even though we typically would call it “public.” However, this objection assumes a public/private distinction along the lines of accessibility and control of information (Tavani, 2007). In contrast, I favor a functional account of public spheres that views them as political practices which serve certain functions within (democratic) governance processes (Loh, Suphan, and Zirrig, 2020). This conceptual difference leads to a different usage of “public/private” that is not focused on the accessibility of information, but rather on the function of a practice within a larger sociopolitical structure. In this usage, public practices can be more informationally restrictive than private practices. I owe crucial insights into this point a discussion with Hauke Behrendt.
- ¹⁵ Also, it differs from social psychological concepts of privacy that view privacy as a “a continuing dialectic between forces driving people to move together and to come apart” (Altman, 1976, p. 12). While such concepts also focus on the social dimension of privacy, the SORM does not go deeper into the psychological reasons or repercussions of privacy arrangements. Rather, it focuses on social-ontological mechanisms of interpretation and reproduction of social practices that are transferred to the context of datafication practices. I am grateful to an anonymous reviewer for pushing me on this point.
- ¹⁶ Again, this is where the SORM diverges from Stahl’s account of “standard authority.” While I take the standard authority to be a necessary condition for the functioning of social practices, Stahl makes a stronger normative claim. In addition, he adds that recognition as standard authority is also a “mutual acceptance of each other’s evaluations as expressions of a context-specific consensus” (Stahl, 2021, p. 198) in the form of more fundamental norms. For him, recognition as standard authority needs those as a reservoir for a “joint commitment that is unproblematic in the context at issue” (ibid.). Even though I do not deny that in most practices such commitments exist, I do not deem them necessary for a mutual recognition as standard authority. In this sense, Stahl’s account is more inspired by Wittgenstein’s rule-following problem, whereas my reading of his account leans stronger in the direction of social functionalism.
- ¹⁷ Within accounts of Critical Theory, such an approach is increasingly explored and employed under the term “immanent critique” (cf. Jaeggi, 2019; Stahl, 2016, 2017).
- ¹⁸ Although macro-level functionalist accounts also refer to—in this case functional—preconditions and necessities that are external to the practice itself (cf. Habermas, 1987; Parsons, 1949), they do not share some of the difficulties of moral and anthropological justifications. For this reason, I will exclude them in the following paragraphs.
- ¹⁹ As Nissenbaum’s position somewhat oscillates between practice-positivist as well as practice-external elements, both of which are rather substantial than functional, it cannot be made compatible with the SORM account of social pathologies. I am indebted to an anonymous reviewer for pushing me on this point.
- ²⁰ As subpractices, datafication practices are connected to a main practice. Diagnosing the datafication subpractice as pathological, however, is only a sufficient reason for morally criticizing the corresponding the main practice *on terms of privacy*, not on other terms.
- ²¹ While some of the transparency-by-design strategies known as “dark patterns” fall under this description, others rather exploit psychomotivational effects. As such, they are discussed together with the other psychomotivational distortions.
- ²² I cannot go into more detail here as to how strong these emotional or motivational effects have to be in order to count as manipulative (Coons & Weber, 2014; Noggle, 2019).
- ²³ The basis for this practical judgment are the internalized role obligations and practice norms as well as the participant’s (implicit or explicit) beliefs about the general functions, goals and underlying values that the practice serves or instantiates. Together, they form the datafied subject’s legitimacy beliefs.

- ²⁴ To be precise, while there is an interest in their performances—as those will ultimately generate the data that is being collected—there is no interest in them performing their standard authority.
- ²⁵ This second order deontic status of standard authority is the reason why the SORM addresses social pathologies in the sense of "second-order-pathologies" (Zurn, 2011).

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