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What Happens When a Robot Commits Crimes?

Current technological waves inevitably challenge people's ethical and moral beliefs and so do the social stabilities and an increase in difficulties to criminal justice system. As we have learned the five elements of a crime were designed for convicting human beings, robots and artificial intelligence which evolve greatly everyday might one day possess freedoms and capability that are beyond human controls, how could humans convict crimes when the defendant is a non-being? How to apply mens rea, actus reus, and concurrence, and to evaluate causation and resulting harm? Therefore, a wide range of ambiguous space is left for criminal justice to impose constraints on advanced technology.

In this chosen media pick, two issues were involved mainly in discussing criminality, the mens rea and judicial sovereignty. About four years ago in England, two Swiss artists coded a shopping bot that was capable of purchasing items on darknet. They exhibited all of the purchased items (including illegal items) to the public in terms of understanding the ethicality and philosophy behind shopping on darknet and also in terms of understanding how trust system was built among the darknet users. From assessing four levels of mens rea, criminality could hardly stand.

The result to this piece of news is that the artists are not criminally liable. Because of their artistic purpose, neither purposely nor knowingly could apply to mens rea. Their action to code and inaction to leave robot working freely do not constitute a surely foreseeable harmful result. However, they were aware of the possibility of illegal purchasing items could be bought by the

robot. According to the U.S. Model Penal Code, two artists may be criminally liable for the shopping's bot's action by considering their mens rea falling into either recklessly or negligently. Nevertheless, British officers claimed the two artists' intent is to explore artist and philosophical meanings rather than breaking the law. As a result, their laptops were confiscated, and the purchased illegal items were destroyed yet the case is not simple.

In this case, judicial sovereignty is another major issue. Two sovereignty problems should be considered, sovereignty with nation-state boundary, and sovereignty that sets boundary between real world and internet world (including automotive robots and artificial intelligence and etc.). British and Swiss officers held different opinions toward this case. One of the artists Smojlo showed no worry to the prosecution because he was a legal owner of the drugs which secured his position in front of law. Despite of it, both artists' Swiss nationality assure their confidence by saying "but our lawyer and the Swiss constitution says art in the public interest is allowed to be free." The British officer from National Crime Agency held different view on this case. Purchasing prohibited drugs might be a legal action in Switzerland yet was stressed by him an illegal action in the United Kingdom. At this phase, the officer only expresses the tensions between two nation-state countries.

More importantly, tensions gradually growing tighter between cyber-crimes and the current criminal justice system which implies a second sovereignty problem, boundary between technological development and conventional legal provisions. In this specific case, two cyber-crimes are brought into play. One is on intangible internet, darknet and the other one is half-tangible, automotive robotics and artificial intelligence. In recent years, many people know from the news that criminal activities and black-market transactions have been conducted at darknet. Yet, governments are incapable of cracking down on darknet successfully because of technical

difficulties. They could monitor illegal activities yet are not allowed to crack down on the darknet market successfully due to its composition of legal transactions. The ability to monitor is equivalent to the risk of national credentials being exposed. Hence, governments encountered a dilemma to regulate dangerous internet spaces. Robotics and artificial intelligence could be utilized as tools to conduct criminal offenses which left more uncertainties to convict crimes when technologies are involved.

This media case challenges both conventional legal provisions and future criminal justice rationales. How to apply elements of a crime to convict technology involved offenses? Who would be criminally liable to crimes when an owned robot committed crimes with emergent behaviors? Are punishing strengths too mild to be ignored? How to build a comprehensive cyber law that prevents criminal activities and at the same time protects people's constitutional rights? There are many more problems we will encounter in the future on a daily basis. Nowadays, technology has been developed rapidly, it's time for law enforcement to catch up with the pace.

URL of the Media Piece :

<https://www.theguardian.com/technology/2014/dec/05/software-bot-darknet-shopping-spreerandom-shopper>

