

Rui Pinto Hacker or Whistleblower?

An ethical analysis

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1 Description of the case

Rui Pinto was born in October of 1988 and raised in "Mafamude", a small town in the North of Portugal. Since very early in his life, Pinto was very invested in football, he was especially fanatic for FC Porto, a football club established very close to his home town.

"*Faculdade de Letras da Universidade do Porto*" is where he cultivated his education, where he studied History, and where he enrolled in the Erasmus program to study abroad in Budapest, Hungary.

While being abroad, in 2013, Pinto was involved in several cyber attacks to the *Caledonian Bank* which had the objective of transferring 264 thousand dollars to the *Deutsche Bank* but was ultimately discovered by the authorities and detained before the transaction was actually completed.

With help from his lawyer, Aníbal Pinto, he was saved from a bigger sentence that lead, in 2014 to the decision from "*Departamento de Investigação e Ação Penal do Porto*" to archive the case and settle for an extralegal accord between Rui Pinto and the Bank, out of which resulted a 100 thousand dollar fine.

Football Leaks declares itself as an attempt to expose the real nature of football and its organizations. With these ambitions in mind, <http://football-leaks.livejournal.com> was created on the 29th of September 2015. John was the name behind the publications on the blog, posting hundreds of confidential documents, making public several contracts and transactions, which expose multiple tax evasion schemes committed around the world, involving FC Twente and Doyen Sports, (which eventually led to the club's ban from European Football for three years) Neymar and FC Barcelona, Gareth Bale and Real Madrid, and others.

Until today, Rui Pinto is the only one that has publicly claimed ownership of the famous website.

The crimes that Rui Pinto is accused of by the Public Ministry of Portugal on September of 2019, after being arrested by the Hungarian authorities (16th of

January 2019) and brought back to Portugal to be kept in preventive arrest, are 147 in total, 70 violations of correspondence, 75 of which involving illegitimate access, one of attempted extortion and one of computer sabotage.

Doyen Sports is the football investment fund that accused Football Leaks of extortion, the website promised its silence in exchange for money.

Several big Clubs like Sporting had their confidential documents posted for the public to see in the website, in particular Sporting had the contract of his coach, "Jorge Jesus" and documents related to the renovation and transaction of the peruvian player "André Carrilho" publicly posted on the alleged website.

The european whistleblowers prize was awarded to Rui Pinto while he was in prison, alongside Julian Assange and Yasmine Motarjemi on the 16th of April 2019.

The Cooperation between Rui Pinto and the authorities from France, Belgium, Netherlands and even with "Polícia Judiciária" from Portugal has been very productive as confirmed by Luís Neves (Director at "Polícia Judiciária") in court, he stated: "*There is that effective collaboration...*" and "*...many disks had not been opened*".¹,

2 Ethical analysis

Disclaimer For the purposes of this analysis, I am taking into account only what is described in the above section, and considering that all the accusations against Pinto are true

What is a Whistleblower? *people who report (within the organization concerned or to an outside authority) or disclose (to the public) information on a wrongdoing obtained in a work-related context, help preventing damage and detecting threat or harm to the public interest that may otherwise remain hidden.*²

By publishing several confidential documents of Sporting Football Club, even if done with a good intention in mind, still breaks the privacy of the referenced Club and all the people that were mentioned in the documents. Beyond being a privacy breach, we have to question ourselves on how did Rui Pinto actually gain access to these documents.

By persuading and promising his silence to Doyen sports regarding their confidential documents in exchange of money he committed a very severe crime of extortion, manipulating the organizations to do what he wanted, holding these documents as a way of making them kneel before his will. Here we have in question the main goal of Rui Pinto.

With all of this context in mind several questions arise to the discussion:

¹Translated from "*Há essa colaboração efetiva*" and "*muitos discos não tinha sido abertos*" in bibliography entry n^o11

²Information gathered from bibliography entry n^o7

1. Is it Ethical to break someone's privacy, based only on suspicion that the person is involved in some sort of bad deed, corruption or law breaking?
2. On the other hand, should privacy laws protect us so much that we have the freedom to hide unlawful acts behind it?
3. Should Rui Pinto be classified as a Whistleblower and therefore be protected by the EU whistleblowers directive?

Rui Pinto, at a first glance of the facts does in fact seem like a person who is invested in doing the right thing, by publishing so much information about corrupt activities, which lead to the investigation of multiple parties, he effectively assisted the police in several other cases. But things are not so simple with him, as before the case of Football Leaks, the cyber attacks to the *Caledonian Bank* which he was involved in served as a precedent and indicator for his extortions of Doyen Sports with Football Leaks.

Since Rui Pinto had a respectable amount of knowledge on computer technology, he can be somewhat considered a Software Engineering professional, therefore we can have him accountable for not following the IEEE Software Engineering Code of Ethics Professional Practice.³

In the described case Pinto violates three codes of conduct. (I will not be describing them here due to the size limit of this work.)

- 1.03 for approving software that risks privacy.
- 1.04 for not contacting the respective authorities upon having suspicion of the wrong doings practiced in the mentioned organizations.
- 4.03 for engaging in extortion, an improper financial practice.

Doyen Sports served as the primary source of accusation towards Rui Pinto, the suspect of committing multiple crimes due to the managing of the Football Leaks website and responsible for starting several investigations on big organizations and personalities of the Football Scene which ended up as the "victims" of the case, several of these had their privacy broken into by Rui Pinto and confidential information leaked into the public through the Leaks website.

Rui Pinto is very fortunate for having his lawyer, without him, he would not have been able to contest on his first attack to *Caledonian Bank*, besides this they **benefited** by having Pinto's view of the football scene somewhat realized when operating the website. Although Doyen Sports and all of the leaked personalities were **harmed**, as they had their privacy broken into, the Portuguese, French, Belgium and other Governments lightly benefited from the whole case, due to starting based on the leaks from the events mentioned. Some of these Governments with the cooperation of Rui Pinto himself.

While it is true that Anibal Pinto was only protecting his client, Rui Pinto, he is a suspect of helping Rui in his extortion acts against Doyen, which only protected itself by accusing Pinto to the authorities. His client, on the surface,

³Information gathered from bibliography entry: 7

seems to only care about the legitimacy of the Football Scene, his extortion attempt contradicts this purist train of thought, if his true goals were only the removal of corruption, then he would contact the authorities instead of "taking matters into his own hands".

Now analyzing the case through an ethical standpoint, there are two ideologies from which the case can be viewed from:

Utilitarianism is the ethical way of thinking where an action is deemed ethical when it tends to benefit all parties involved and non ethical when it tends to harm the parties. This action, must also be impartial and numb to race, gender, and an other form of judgement, each person amounts to the same "weight".

Rui Pinto before deciding to create Football Leaks had to balance his actions on a scale of cost versus benefit

Benefit - The discovery of several corruption cases.

Cost - Disrespect the right to privacy of all the affected companies and personalities, potentially breaking this right with no outcome.

Taking this balance into account and the Utilitarian Ethics, the actions of Rui Pinto would be ethical, due to the high benefit to the society in exposing various cases of corruption. Since the benefits outweigh the costs this actions had a good impact in the general society's happiness and so would be considered ethical.

Kant's Deontologic Ethics differs from Utilitarianism by stating that some actions are immoral even if they achieve global happiness and pleasure.

Kant believes that our human emotions and biases should not be involved in any moral action. Our morality should serve as a framework of rational rules that dictate what actions to take and what not to.

Kant describes several Categorical Imperatives, from which every moral norm can be derived:

- *"Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction."*
- *"Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end but always at the same time as an end."*
- *"Therefore, every rational being must so act as if he were through his maxim always a legislating member in the universal kingdom of ends."*

For an action to be considered ethical by Kant, it's outcome does not matter, the action itself must be driven by the actor's obligation, must be well thought out and abide by his morality rules. ⁴

⁴Information gathered from bibliography entry n°14

In the case of whistleblowers, specifically Rui Pinto's case, for his actions to be ethical they must remain ethical in the hypothetical scenario where everyone can invade everyone else's privacy with the justification of finding if the invaded is doing any illicit activity.

This is not feasible, if the valid justification for breaching someone else's privacy is simply suspicion then the privacy rights are never respected and end up losing their value.

Is it Ethical to break someone's privacy, based only on suspicion that the person is involved in some sort of bad deed, corruption or law breaking? We can set up a small analogy for analyzing this question. An officer needs to go up the hierarchy of justice, demonstrating why he is justified and has suspicions of someone, therefore it would be beneficial to invade his house and "catch" the suspect in his comfortable habitat.

A whistleblower is very similar to a police officer that does not need a search warrant to enter a house. If one does not need a very well justified reason to invade someone's privacy, he can use his suspicions as an excuse to break into a home.

Therefore, it is **not** ethical to break someone's privacy based solely on suspicion.

Should privacy laws protect us so much that we have the freedom to hide unlawful acts behind it? This is mainly a question of "trading-off" privacy with better law enforcement. The more the authorities control what individuals and companies do, the more they can catch illicit actions but the less privacy that person or company has. While there needs to exist some sort of supervision on individual activities, this supervision cannot be so mild that everyone can disrespect the law, using their privacy to shield themselves.

A possible solution to a question like this could be a system that would allow the authorities to analyze the internals of an organization with a certain level of anonymity. That way the aspects that regard the law are shown and the aspects that regard the individual's privacy remain in secret. Although it is an interesting idea, a system like this is very difficult to make, as it needs to be highly sophisticated and highly specific for each law and each different organization. It also needs to counteract the problem where a large amount of anonymous data can be compiled to create non anonymous data, essentially reverting the anonymity of the information.

Should Rui Pinto be classified as a Whistleblower and therefore be protected by the EU whistleblowers directive? According to the definition of a whistleblower in the European whistleblowers directive, Rui Pinto cannot be considered a whistleblower, this is because he is not an employee in the companies referenced in the case, therefore he did not access the confidential documents referenced in a legal way. Therefore, Rui Pinto is **not** a whistleblower and should not be protected by the directive.

In my opinion, the way that Pinto executed the act of Whistleblowing is not ethical, the right to privacy cannot be broken on a mere suspicion, only in the case where the authorities decide that it is justified.

If, in the **future** there is a suspicion that someone or some organization is committing illegal acts, this suspicion should be expressed to the corresponding authorities. Rui Pinto should have done this as he is not a working member of those organizations and therefore could not contact the internal chain of command to report his suspicions. Then the authorities would decide on how they would proceed with the case and if deemed necessary, in the future they could justify breaking the privacy rights of the suspect organizations, but until then, that right would be respected and remain unbroken.

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