

Common Assignment 1
To be completed by all students, regardless of major
Due: Sept. 20

For this discussion, you are to analyze the situation described below using the ethical theories identified in class as useful for discussions – Kantianism (both the first and second formulation – separately), Act Utilitarianism, Rule Utilitarianism and Social Contract Theory. That's 5 different analyses. Each one should be about 1/3 to 1/2 a page long.

You should examine the posted (to Moodle) example ethical analysis and structure your analyses the same way. Answers should be uploaded to Moodle – late assignments will not be accepted.

The Situation:

A Virtual Personal Network (VPN) provider has guaranteed its clients total anonymity. A government (from another country – i.e. one that has no legal power over the VPN provider) comes to the provider and presents proof that one of the provider's clients is using the VPN to shield its uploading of child pornography. They ask that the provider give them details on the client that will allow them to identify their client. Is it ethical for the provider to do so?

Analyses begin on the next page.

Kantianism (First Formulation)

Question: Can a government with no legal authority in a VPN's country of operation acquire information about a customer if evidence was presented that the customer was engaging in illegal activity?

Proposed Rule: If a government provides evidence that a customer is transmitting child pornography using the VPN their information should be shared to the government.

Universalized Rule: If a government provides evidence that a customer is performing illegal activities using the VPN their information should be shared to the government.

The proposed universalized rule would lead to a lack of faith within the VPN provider. In this case the VPN provider has guaranteed its clients total anonymity, in violating the privacy of one individual we can come to the conclusion that any user's privacy may be violated. Additionally, in this instance we have proposed that the government in question may not even be in the same country as the VPN, and as a result what one country may believe is illegal another may not. A good instance of this is China where many sites are blocked by the government, and a VPN could be used to bypass this. The government of China could consider this illegal whereas another government may not. As a result of the above reasoning the universalized rule would not work as thus unethical.

Kantianism (Second Formulation)

By using the VPN as a means to distribute child pornography, the client doing so is using the VPN as a means to an end. As a result if the VPN provider continues to enable the client to do so they would then be using the client as a means to an end to protect their promise of anonymity to all customers. Therefore it would be unethical for the VPN provider to not give the details of the client to the government. Additionally the client is using the VPN as a means to an end to harm those affected by the child pornography being distributed, which is therefore also unethical, and further supports the action of releasing the clients details as the ethical choice.

Act Utilitarianism

The act to be analyzed is a VPN provider disclosing client details to a government presenting evidence that that client is using their VPN to distribute child pornography (or other illegal activity).

Costs:

- By disclosing the clients information they are not providing the client with total anonymity
- In disclosing this information the VPN provider is breaking their guarantee of total anonymity to its clients, and therefore are tarnishing their reputation

Benefits:

- The client distributing child pornography can no longer harm innocent children
- The government can maintain order and uphold the law of its country by stopping a criminal
- In breaking the guarantee of total anonymity the VPN provider may as a result deter other criminals from performing these same activities

In the analysis of this act the benefits of this act significantly outweigh the costs. By allowing the government the client's details they will be able to apprehend and stop a criminal and therefore stop the harm caused to the many children affected by the child pornography distribution. Although the VPN provider is breaking its guarantee of total anonymity, stopping a criminal will provide more overall happiness in the world. Additionally, breaking this guarantee may, as mentioned, deter others from performing criminal activities, which outweighs the reputation and/or trust the VPN provider may have lost as a result. As a result the most ethical decision would be to release the clients information to the government.

Rule Utilitarianism

Proposed Rule:

A VPN provider should disclose client details to a government presenting evidence that that client is using their VPN to distribute child pornography (or other illegal activity).

Costs:

- By disclosing the clients information they are not providing the client with total anonymity
- In disclosing this information the VPN provider is breaking their guarantee of total anonymity to its clients, and therefore are tarnishing their reputation

Benefits:

- The client distributing child pornography can no longer harm innocent children
- The government can maintain order and uphold the law of its country by stopping a criminal
- In breaking the guarantee of total anonymity the VPN provider may as a result deter other criminals from performing these same activities

The costs and benefits are exactly the same as Act Utilitarianism in this case as the rule we have proposed is nearly identical to the act we analyzed in Act Utilitarianism. Under Rule Utilitarianism we arrive at the same conclusions that it would be more morally beneficial to the whole of society to release the information of a customer performing illegal activities while using the VPN. Hurting the trust in your company to guarantee anonymity, greatly outweighs the harm that could be inflicted on the children and/or individuals by a user distributing child pornography or performing illegal activities through the use of your VPN. Thus we can conclude that our proposed rule would be an ethical decision to enforce.

Social Contract Theory

Under the social contract of our society everyone should be entitled to their personal privacy. However, in this case the distribution of child pornography is considered to be illegal. As a result the decision that this was made illegal should be taken into account if we are to violate the rights of a single individual using the VPN. We have run into a classical case of two wrongs, may in this case, make a right.

A key factor we need to consider is the common practices of most software agencies across the world. It is common for users of software to enter into agreement with the software providers Terms of Service and Privacy Policy. In this situation, the VPN provider has set forth that they will guarantee the users anonymity. Though the user likely agreed to the VPN provider's privacy policy which may state that a user's details may be disclosed in the event that user is using the software with malicious or illegal intent.

On the opposing hand we should consider the individual government that is requesting the information. Suppose they found a user who is doing something illegal by their governments standards. Who is to say that the government and the VPN provider's government agree on the legality of this matter (in our case child pornography is considered by nearly all if not all countries)? This could lead to something like an oppressive government having more power over its citizens than a more free government. The classical example is geo blocked websites that can be bypassed with a VPN. These sites may have no inherent malicious intent but are being controlled by the government nonetheless.

In this situation I would judge the decision to release the details of the user distributing child pornography as an ethical decision. As a society we've deemed this act as illegal, and it's likely the privacy policy of the VPN states a user's anonymity may be broken in this event. However, in the larger picture of other illegal activities we would need to consider other factors of legality, most notably geo blocked websites, as mentioned, with no malicious intent.