Prisoners’ Ethical Dilemmas

DATA 605: Ethical and Legal Issues in Data Science

Stephanie Zhang

The purpose of this paper is to examine the ethical issues of using information from incarcerated political prisoners without their consent for facial recognition technology. This will be examined using several well-established ethical theories. First, ethical issues will be introduced, followed by an assessment from each ethical theory.

Although plentiful, the two big ethical issues on this topic stem from the ethical principles of “justice and respect for persons” (*The Ethical Framework for Research Involving Prisoners*, 2007). The principle of justice means equal or fair treatment of people, while respect means the right to autonomy.

The idea of justice connects to the ethical issue of how much these prisoners bear the responsibility of the research as well as get the rewards from it. The idea of respect connects to another issue, validity of consent (*The Ethical Framework for Research Involving Prisoners*, 2007).

These issues are further complicated by the power imbalance between prisoners and prison authority, as well as the researchers. In fact, the prison environment is so toxic that mind games and gaslighting is an everyday norm (Gacek, 2021). Therefore, it is easy to make the argument that the prisoners’ consent was given under psychological manipulation, thus rendered invalid.

Now, these issues will be examined through the lenses of Kantianism, utilitarianism, social contract theory, and virtue ethics. In this scenario, the fact is the information was gathered without the prisoners’ consent. The question of consent will be frequently referenced throughout.

Beginning with Kantianism, this is an unyielding brand of ethics that centers around “*The* *Categorical Imperative*. The CI determines what our moral duties are.” (Gaskill, 2008). The CI is the set of universal rules that everyone should follow, no matter what. Furthermore, Kant believed that the motivations or reasons behind people’s actions are what’s important, rather than the consequences (Gaskill 2008).

Kantianism is all about the golden rule. That is, treat people the way you want to be treated, and never “as a means to an end” (Quinn, 2017). Thus, it would be wrong to collect and use research from these prisoners, because the researchers are using these prisoners as a means to an end.

What’s more, the information collected was given without consent, which only makes it worse in Kant’s eyes. The likelihood that the prisoners were not compensated does not help. It is akin to stealing information and labor, in which Kant believed that “certain types of actions (including murder, theft, and lying) were absolutely prohibited” (Gaskill 2008).

Moving on to utilitarianism, the chips land on the pro side. Utilitarianism is about choosing actions that maximize the good and minimize the bad. The good being happiness, and this is added up for everyone affected by the action. Here the importance is placed on the consequences.

Going along this line, then the intentions behind the research was good, such as advancing medical practices and discovery of hidden diseases and conditions. In fact, facial recognition technology has been monumental in these efforts (Grifantini, 2020). Facial recognition technology is driven by data, so progress can only be achieved by using as much data as possible, including data from these prisoners.

Thus, although all these benefits come at the cost of prisoner’s rights, it’s a sacrifice worth making, and this is what needs to be done. Consent, autonomy, and due compensation take a backseat to the greater good of advancing modern medicine. Utilitarians thank them for their service.

Additionally, another well-established ethical theory is the social contract theory. Social contract theory states that people essentially sign a contract with society to join it. In which, the people of the society agree to all follow the same rules and be disciplined by a government force (Fieser, 2017).

The benefit is since everyone needs to follow the rules, a person can expect a relative sense of safety. The drawback is that the person must adhere to all the rules, all the time, lest be punished. Additionally, the social contract theory does not provide a solid stance when examining ethical issues due to its emphasis on rights.

When there are conflicting rights between two parties, the social contract theory validates each side, so long as that side can prove it had the right to action (Quinn, 2017). Thus, from one side, prisoners have the right to contribute their information to research if that is what they want. They should be allowed to play a role in bettering the training of the database and compensated accordingly.

On the other hand, because their information was taken without consent, social contract theory can also be used to say this was wrong. To elaborate, their right to consent and privacy was violated, thus it was wrong to take these prisoners’ information. Lack of consent means they likely did not receive any compensation either.

This stance is like that of virtue ethics. Virtue ethics has been around for an extremely long time, “In the West, virtue ethics’ founding fathers are Plato and Aristotle, and in the East, it can be traced back to Mencius and Confucius…” (Hursthouse, 2018). Virtue ethics is focused on the moral character of individuals. Put another way, having virtues for its own sake.

Therefore, it was wrong to use prisoner’s data because it was taken without their consent, violating the virtues of trust and honesty. The prisoners’ trust was betrayed by those who had access to them, with the possible use of deceit and lies. Furthermore, the vice of thievery is also seen.

Lack of consent means the information was stolen from the prisoners, and the high likelihood that they were not compensated is also known as stolen wages. Again, all bad things. Thus, from the standpoint of virtue ethics, it was wrong to collect and use information from prisoners without their consent.

To summarize, the specific ethical issues relating to the usage of prisoner data without their consent centers around the idea of compensation and consent. In examining this, the ethical theories of Kantianism, utilitarianism, social contact theory, and virtue ethics were used. Each theory brings to the table a different perspective and can thus be used to argue for or against gathering information on political prisoners, with or without consent.

References

Institute of Medicine (US) Committee on Ethical Considerations for Revisions to DHHS Regulations for Protection of Prisoners Involved in Research; Gostin LO, Vanchieri C, Pope A, editors. Ethical Considerations for Research Involving Prisoners. Washington (DC): National Academies Press (US); 2007. 5, The Ethical Framework for Research Involving Prisoners. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK19885/>

Gacek, James, (2021). Ethical Considerations for Pandemic Prison Research, Annual Review of Interdisciplinary Justice Research 172, 2021 CanLIIDocs 1713, Retrieved from <https://canlii.ca/t/t9hv>

Gaskill, Dan, (2008). Kantian Ethics, A Philosophical Introduction to Ethics, California State University. Retrieved from <https://www.csus.edu/indiv/g/gaskilld/ethics/kantian%20ethics.htm>

Quinn, M. J. (2017). Ethics for the information age. 7th Edition. Pearson/Addison-Wesley.

Fieser, James (2017). The Social Contract, University of Tennessee at Martin. Retrieved from <https://www.utm.edu/staff/jfieser/class/300/socialcont.htm>

Grifantini, Kristina, (2020). Detecting Faces, Saving Lives, How facial recognition software is changing health care. IEEE Pulse. Retrieved from <https://www.embs.org/pulse/articles/detecting-faces-saving-lives/>

Hursthouse, Rosalind and Glen Pettigrove, "Virtue Ethics", The Stanford Encyclopedia of Philosophy(Winter 2018 Edition), Edward N. Zalta (ed.), Retrieved from <https://plato.stanford.edu/archives/win2018/entries/ethics-virtue/>