The Ethical Permissibility of Using Facial Recognition as a Means of Identification

Introduction

Facial recognition has been a very controversial topic in recent years as the technology has been developed to a point where widespread use of it can occur. To understand why this is a large ethical issue, we need to look at what makes it controversial. Facial recognition typically uses a form of AI combined with real world images, such as photographs or videos, to match people's faces to a large database of photos provided to the AI. This has recently been used by law enforcement to capture perceived criminals and classify people into different groups for easier administration. In this essay I will argue that using facial recognition as a means of identification is morally impermissible using two moral theories: Kantian Deontology and rights-based ethics.

Kantian Deontology

The first moral theory that I will look at to evaluate this problem is the theory of Kantian Deontology. Kantian Deontology has a general idea of prioritizing the right over the good, when simplified the theory looks at actions and splits them into two categories: right actions which are actions that a person should be morally required to do, and wrong actions which are actions that people should be morally forbidden from doing. Kant supplements this with suggesting that an action is only good if it can be applied to all situations equally. Kant also emphasized that treating people as autonomous agents is extremely important. Kantian Deontology would suggest that using human faces to predict criminal behaviors is impermissible because you are not respecting the autonomy of the person whose face is being used and categorized. This action is also not good because having law enforcement use these technologies will inevitably see law

enforcement single out individuals that fit the criteria used to "predict" possible criminals. Using these individual's face to predict criminal behavior and ignoring their other qualities such as goals and emotions would also lead to a direct opposition to Kantian Deontology. Applying this theory to the problem of facial recognition yields an idea that using facial recognition is impermissible under this moral theory.

Rights-based Ethics

The second moral theory that I will look at to evaluate this problem is rights-based ethics. This moral theory operates under the assumption that everyone has rights that need to be respected. Some rights carry more weight than others, for example, the right to life carries more weight than the right to purchase a pack of candy. Three rights that can be used to oppose the idea of using facial recognition as a means of identification are the right to privacy, the right to consent, and the right to be protected from discrimination. The first, which is defined in Article 12 of the United Nations Declaration of Human Rights, is a right where "No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor or reputation" (United Nations, 1948, art.12). The right to privacy is probably the biggest one to look at in this situation because everyone should be given the right to keep their life private. When you use these technologies to see where someone is going and how they might act in the future based on their actions, possibly without their knowledge, your actions go against this right. The second right that we should apply to this issue is the right to consent. If you use someone's likeness for something that they do not explicitly allow you to do, you are violating this right in the sense that you are using their face without their explicit permission. We can also use Article 7 of the United Nations Declaration of Human Rights which states, "All are equal before the law and are entitled without any discrimination to equal

protection of the law" (United Nations, 1948, art.7). Categorizing a person based on their physical characteristics would be violating this right and would go in direct opposition to the right set forth here because you are discriminating against that person. To look at opposition within this theory we should look at the right to safety. The right to safety would support the facial recognition in that if law enforcement can catch bad actors before they can cause harm than it would be morally permissible. However, the other two rights listed above would, in my opinion, outrank the right to safety. The rights to privacy and consent are extremely important rights in the hierarchy of rights-based ethics and violating them would cause facial recognition in this sense to be morally impermissible when applying this theory.

Conclusion

I have shown how this issue goes directly against two major moral theories and these moral theories are very prominent in the world of philosophy. While the issue of facial recognition as a means of identification is a relatively recent issue in technology, it is one of the more important ones that need to be addressed, and I do not believe that facial recognition should be used as a means of identification because of what was discussed above.

Works Cited

Gentzel, M. (2021). Biased face recognition technology used by government: A problem for

    liberal democracy. *Philosophy & Technology*, *34*(4), 1639–1663.

    https://doi.org/10.1007/s13347-021-00478-z

Hale, B. (2005). Identity crisis: Face recognition technology and freedom of the will. *Ethics,*

    Place & Environment, *8*(2), 141–158. https://doi.org/10.1080/13668790500237047

Smith, M., & Miller, S. (2021). The ethical application of biometric facial recognition

    technology. *AI & SOCIETY*, *37*(1), 167–175. https://doi.org/10.1007/s00146-021-01199-9

United Nations. (1948). Universal Declaration of Human Rights.