

Sailing the High Seas: A Christian Exploration of Piracy

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1 Introduction

1.1 Background Information

[T]hat ideas should freely spread from one to another over the globe, for the moral and mutual instruction of man, and improvement of his condition, seems to have been peculiarly and benevolently designed by nature, when she made them, like fire, expansible over all space, without lessening their density at any point, and like the air in which we breathe, move, and have our physical being, incapable of confinement or exclusive appropriation. Inventions then cannot, in nature, be a subject of property. Thomas Jefferson [1]

It is generally accepted that piracy is an illegal activity, but what is often overlooked is the legitimate role that piracy plays in a variety of contexts. When it comes to subverting oppressive regimes, for instance, the tools that piracy provides are indispensable and for protecting the interests of consumers from predatory business practices, the abilities of piracy are unmatched.

Needless to say, with every unregulated system comes abuse and piracy is no exception. On top of that, piracy, on an individual level, is extremely difficult to combat because of the immaterial nature of the items that would need to be protected. Ideas flow freely between people especially when the Internet is involved, so stopping this flow becomes an exponentially more difficult problem the more people have the restricted data. The ease with which ideas propagate lead people like Thomas Jefferson to claim that they are “incapable of confinement or exclusive appropriation.” Consequently, two parties form: those that support piracy for its free and open spread of all information and those that see piracy as a threat to the further advancement of technology and ideas.

Before proceeding further into the issue of piracy, it is important to have a grasp of what piracy means insofar as how this paper interprets it. The dictionary defines piracy as “the unauthorized use of another’s production, invention, or conception especially in infringement of a copyright.” While this covers the technical definition of piracy, this paper elects to utilize a more wholistic definition. Piracy not only includes the unauthorized use of someone’s work,

but it includes the tools and techniques that are commonly used to accomplish this task such as torrent trackers, VPNs, and torrent clients.

As a Christian, how should one approach such a tool and how can it be utilized for the betterment of God's kingdom? In the paper that follows, piracy will be analyzed through a number of lenses, culminating in a Christian response to this issue. In doing so, the hope is that the reader attains a fresh, wholistic understanding of the potential value of piracy.

1.2 Thesis/Argument

Piracy should not be hastily thrown aside. Piracy is an excellent tool for disseminating information, services, content, &c. that may not have been available any other way.

2 Arguments For Piracy

As mentioned above, even though piracy is illegal, there is still merit to the tools of piracy and the values behind them. The merits of piracy can be divided into three realms: equal access to information, governance, and privacy.

2.1 Equal Access

At its core, piracy is primarily concerned with accessing information of all kinds, regardless of whether someone is authorized to access that information or not. This is what piracy is best at and, contrary to popular belief, it is not always a bad thing.

Take the restricted access to academic journal articles, for instance. Many academic journals require all readers to pay not an insignificant sum to access research articles that could contain insight that is valuable to the human race as a whole. Because of the high cost of entry, certain groups are automatically excluded from reading and building upon the research that has already been done. John Barlow puts the situation eloquently in *Selling Wine Without Bottles: The Economy of the Mind on the Global Net* when he says, "I am not comfortable with a model which will restrict inquiry to the wealthy." [1] In the case of academic journal articles, why shouldn't anyone be able to better themselves by consuming quality research articles? All humans should be allowed to continue to learn more about God's creation without being bound by their financial status. Just as how someone can go to the library and checkout any book that tickles their fancy, they should be freely able to learn from the ongoing research of our world. Of course one should recognize that not all information is safe or helpful to be freely available on the internet, but that is a topic for a later section.

A more concrete instance of where paywalls can be directly harmful to the human race is with regards to medical research. Till et al. stresses how important access to medical research is in their article *Who is pirating medical literature? A bibliometric review of 28 million Sci-Hub downloads*.

Access to the medical literature is essential for both the practice of evidence-based medicine and meaningful contribution to medical sciences. Nonetheless, only 12% of newly published papers are freely accessible online, and, as of 2014,

only 3 million of the 26.3 million articles indexed on PubMed were available on the site's repository of free materials, PubMed Central. Access to paywall-protected literature remains primarily through institutional subscriptions. Such subscriptions are costly and many struggle to afford access. The result is a disparity in access to the medical literature, particularly for those in low-income and middle-income countries (LMICs). [2]

According to Till et al. the high subscription cost to access medical journal articles means that those in less advantaged countries cannot afford access to the material, which is detrimental to the furthering of medical sciences. In light of this, it should come as no surprise that “Nearly 1 million articles published by medical journals are downloaded on Sci-Hub each month.” [2] Piracy enables the less fortunate countries to access valuable medical data that is essential to furthering medical research for the human race. In such a specific case as this, it should not be controversial to conclude that piracy is a good thing.

Medical journals are not the only source of information that can sit behind a paywall. Sometimes, as in the previous case, there is information that one might argue is unjustly kept away from the common man. What one considers to be unjust is subjective, but the idea is that piracy is a tool that consumers can employ to fight systems that they deem to be unjust. Without piracy, one might have to roll over and accept their limited access or resort to a more extreme and likely illegal approach. To put it another way, piracy acts as a check on businesses to discourage them from integrating unpopular, anti-consumer practices into their business model. When a consumer wants to purchase something and they cannot afford it, they might start to look for alternative way of obtaining it. But, when they can afford it and they think it is fairly priced, they will purchase it. Thus, piracy is often where tech-savvy persons turn to when they need something that they feel is exorbitantly priced, but is not often utilized when they feel the purchase is worthwhile. This way, piracy acts as a safeguard for consumers when they feel they are being taken advantage of by predatory business practices.

1. Piracy allows equal access to information
2. “I am not comfortable with a model which will restrict inquiry to the wealthy.” [1]
3. Increased prices are an artificial barrier to access certain information. Piracy provides a circumvention to said artificial barrier. Piracy gives consumers a way to fight systems they see as unfair/censorship. Piracy is a tool of the consumer to control/balance the economy [3], [4]
4. People pirate medical content. [2] Medical information is valuable to everyone. Having medical information is crucial to advancements in medicine, but sometimes the cost is too high. The paywalls, in this case, are directly harmful to ends that are beneficial to everyone.

2.2 Governance

1. Dissemination of information through means of piracy and torrenting gives access to those within areas where Internet shutdowns are commonplace.

2. Piracy provides a way around an oppressive regime, which are on the rise. [5]
3. IP laws arbitrarily restrict free speech / invention just because someone came up with it first. [6, p. 1339] They are based on the assumption that, in doing so, they are encouraging creativity (to be first to invent/create), when, in reality, creativity doesn't always come first, but may rather be an improvement upon the established. The most creative solution is not always the first one. IP laws and restrictions block slight innovations upon the existing intellectual property.

2.3 Privacy

1. Piracy gives you access to cracked versions of software that provide more sensible privacy/freedom than what is accessible legally. [7]

3 Arguments Against Piracy

While piracy enables free access to information and content, it is crucial to faithfully and charitably explore the potential dangers and economic implications associated with this practice. The arguments against piracy are not easy, nor should be, easy to dismiss. This paper will focus mainly on the ethical and economical concerns that the use of piracy introduces into society.

3.1 Access to Dangerous/Illegal Content

Piracy has been associated with unrestricted access to information and content. As previously discussed, this aspect of piracy provides the means for those in need to access information that would otherwise be unavailable to them; similarly, piracy can thus provide avenues to bypass governmental restrictions on public information. This same benefit, however, becomes a strong argument against piracy when what is distributed is dangerous or illegal content.

3.1.1 Criminality of the Seeder and Leecher

This paper has focused on a more wholistic definition that encompasses the tools, techniques, motivations, and content, but the motivations and content that are involved in piracy should not be ignored. Piracy does involve a form of theft and dissemination of an individual's or organization's intellectual property. Piracy, thus can and most often does violate laws in most jurisdictions. Piracy, when it uses torrenting, involves both the seeder and the leecher (or the uploader and downloader, if not using torrenting). Depending on the legislation of the country in question, the leecher may or may not be found guilty of a crime, but this is complicated by the global context of digital piracy.

In the United States, the downloader/streamer/leecher are generally considered offenders that could be subject of fines or even criminal charges. The severity of the penalties of piracy in these cases pose a major argument against the use of piracy, at least in the United States or nations where the individual downloading can be found guilty of a crime. "Fair use" and

statutes of limitations may alleviate penalties, but repeat offences may also lose one's favor in these cases. [8]

3.1.2 Malware

Piracy may openly distribute dangerous illegal content, but arguably the larger threat is the dangerous content that remains undisclosed. Piracy circumvents mainline distribution channels that may incorporate secure policies of data integrity, authenticity, and privacy. Some piracy tools provide some ways to vet the authenticity of an uploader based on past uploads or based on the user's relationship with the piracy/torrenting site¹, but not all sites provide these metrics or warnings for the average end-user. Instead, the burden is often on the end-user, and it is not unfair to assume that the average person would not be able to analyze downloaded software for malware.

3.1.3 Illegal content

Piracy, as discussed above, provides a way to distribute illegal content. This content is not always beneficial to society; research articles, art, movies, &c. are not the only sorts of content that a pirate may distribute. Piracy opens the door for questionable and illegal content that may be harmful to society or national security.

3.2 Economic

Piracy, as a theft, also causes real harm to businesses. The act of piracy does involve stealing and distributing content from creators and organizations that invested time, money, and effort into the content. In this sense, piracy is stealing from the individuals' revenue and the government's tax revenue. [9]

“According to Gould and Gruben (1996), IPRs protection stimulates economic growth if it is accompanied by a policy of trade liberalization. By encouraging initiatives to innovate, IPRs protection may influence the economic growth of an open country. Park and Ginarte (1997) found that IPRs protection affects economic growth indirectly by stimulating the accumulation of factors of production such as physical capital and R&D capital.” [10] Piracy, therefore, discourages innovation in the capitalist marketplace.

4 Christian Response

A Christian response to piracy should honestly take into account both sides of the debate. As shown above, piracy does have some merit to it. Christians have to admit that piracy-promoting tools do enable

1. Drawing distinctions: Paywall to information is different from withholding information for sake of security

¹ThePirateBay, for example provides icons to display whether a user is *Trusted*, *VIP*, or *Moderator*

2. Paywalls provide the means of living for artists, writers, &c. Providing ways to circumvent these when unnecessary may hinder their livelihoods.
3. Betterment of mankind as a whole, should not be behind a paywall
4. Piracy provides an avenue for missionary outreach; piracy provides means of secret dissemination within an oppressive regime.
5. Piracy provides the means for access to content/information without much accountability

5 Conclusion

5.1 Final Thoughts / Responses

1. In response to economic argument: Would the pirate have bought the product/service in the first place?

Of additional concern is the fact that by making [Intellectual Property] theft a national security threat without being clear about what actually constitutes intellectual property, not only does the U.S. government create a new reason for a militarized Internet, but it also sets the stage for companies to assert that a range of other activities from file sharing to producing counterfeit DVDs threaten national security and require further state intervention. [11, p. 264]

5.2 Applications

5.3 Further Work

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