Chapter 12
The Case of “Illicit Appropriation” in the Use of Technology

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ABSTRACT
In this chapter, the authors play the devil’s advocate to those who favor strict government supervision over technology itself. The authors’ argument is that technology is a “neutral” mean to an end, and that the use of technology to detract social deviations is dependent on public policy and social behavior. To elaborate their argument they propose the concept of “illicit appropriation”, based on the Human Computer Interaction concept of appropriation. The authors argue that sometimes appropriation can be geared towards activities that can be considered as illicit, and in some cases criminal. They illustrate the use of illicit appropriation through a series of case studies of current events, in which they show that either a state or the individual can rely on illicit appropriation. The authors’ final conclusion is that the use of technology to combat social deviations is not a technological problem, but a public policy issue, where a delicate balance has to be found between the enforcement of the law by technological means (approved by legislation), the user experience, the civil liberties of the individual and the checks and balances to the power of the state. This chapter is written from the expertise of the authors on Human Computer Interaction and Security Studies.

INTRODUCTION
Ramón de Campoamor y Campoosorio wrote the poem¹:

En este mundo traidor

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¹ Nada es real ni es mentira
Todo es según el color del cristal
Con que se mira.

(In this treacherous world,
nothing is real or a lie;
everything is according to the color of the
glass you are looking through)
In the everyday of the Mexican folklore, the introductory line of this poem has been forgotten, leaving simply the phrase: “Nothing is real or a lie, everything is according to the color of the glass you are looking through”. Sometimes, the glass is being used to look into technology. Technology can be used to commit unspeakable acts, e.g. war, as well as to enhance human life, e.g. The Manhattan Project ended World War 2 and provided technological advances that we still use (Kelly, 2007). But technology is neither bad nor good as its value depends on the action that the technology is mediating. The role of technology to perform actions that can be deemed as good or evil depends on the eye of the beholder, as it was the case of the Manhattan Project, which helped humanity to end a war, but it also provoked the death of millions of civilians.

Arguably, the value of every human conduct is not left to interpretation. There are certain conduct that are deemed criminal (deviant acts) by the legislation of most democratic states such as pedophilia, human trafficking, kidnapping (or any other type of extortion), homicide, terrorism or copyright infringement. These deviant acts have benefited from the use of “new technologies” up to a point that they are considered as central for the commission of the illegal conduct. This prominent role of the technology has provoked a response from public actors that seems oriented to “punish” technology itself and limit its functionalities, and not only to prosecute and punish the crime.

However, it is when non-democratic States act in the same way to prosecute conducts that in their context are also considered deviations (e.g. China vs cyberporn or Iran vs Twitter), that the conflict between the neutrality of technology and the Nanny State becomes clearer. A biased criterion seems to dictate that it is valid for democratic states to restrict technology in lieu of the prosecution of criminal acts, but it is not valid when, outside the democratic world, those restrictions limit human rights or user experience.

In this chapter, we play the devil’s advocate to those who favor strict government supervision over technology itself or that claim that the way to stop deviant acts is purely technological. We do not argue that some actions should be accepted and some others not. Instead, our argument is that technology is a “neutral” mean to an end, and that the use of technology to detract social deviations is dependent on public policy and social behavior. We also argue that technology designers should be aware that any new feature included to stop deviant acts might be used to commit those very same acts. We concur with Koops et al. that the goal of a technology-neutral regulation should be that “the effects of the ICT [Information & Communication Technologies] should be regulated, but not technology itself” (Koops, Lips, Prins, & Schellekens, 2006).

To elaborate our argument we propose the concept of “illicit appropriation”, based on the Human Computer Interaction (HCI) concept of appropriation (e.g. Dix, 2007). Dix argues that the user of a technology appropriates its usage in a way not foreseen by the designer of the technology. We argue that sometimes that appropriation can be geared towards activities that can be considered as illicit, and in some cases criminal. We illustrate the use of illicit appropriation through a series of case studies of current events, in which we show that either a state or the individual can rely on illicit appropriation. In those examples, we argue that the use of technology to deter illicit behaviors is linked to civil liberties. One of our conclusions is that technology rarely creates new crimes, but it does ease the process of committing them. As one of the old mantras of information technology says: computers only make processes more efficient, in this case the process of committing a crime. Our final conclusion is that the use of technology to combat social deviations is not a technological problem, but a public policy issue, where a delicate balance has to be found between the enforcement of the law by technological means (approved by legislation), the user experience, the