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The secondary interview : Ethical concerns regarding social media scanning in the commercial hiring process

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THE SECONDARY INTERVIEW: ETHICAL CONCERNS REGARDING SOCIAL MEDIA
SCANNING IN THE COMMERCIAL HIRING PROCESS

A Thesis Submitted
in Partial Fulfillment
of the Requirements for the Designation
University Honors

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Introduction

As more and more of our daily lives take place online, it is becoming critical for our society to decide how we deal with ethical issues in an online context. The study of ethics has existed for millennia, but only recently have two people on opposite ends of the globe been able to communicate and collaborate on a project in real time. One of the most prominent places this change has affected the daily lives of Americans is in the world of business.

This research will apply academic, philosophical work in ethics to determine if and where ethical concerns with social media scanning are and what managers should do to make the process as ethical as possible. It is necessary to do so because not only are the ethics of social media scanning, not well defined, but the American legal system has not addressed the issue. Determining what laws should be instituted in response to social media scanning is not the goal of this research, rather, it will apply academic ethics to answer the question: What are the ethical ramifications of social media screening's use within business hiring?

While the studies of ethics of business and hiring practices has been written about extensively, most of this work was completed before the invention of social media, let alone its proliferation in business. Current studies on the ethics of social media as a hiring tool focus prominently on how it should be used or the impacts on the business itself whereas this research will examine the ethical impact on the individuals involved in the process. Regarding individuals only as autonomous beings owed ethical treatment and not as possible variants on the company's financial standing will be a departure from many writings on business ethics. This is not, however, to suggest that the study of business ethics has been neglected or that researchers in the field have been biased in favor of commercial organizations, but that this work will examine the

issue of social media sites being used as hiring criteria primarily through the lens of philosophy, and specifically, prominent ethical theories.

The ethics of the topic have not been well-researched, but there has been significant research done into the prevalence and objectives of this practice. Surveys conducted by CareerBuilder in 2008 and 2009 showed an increase in employers reporting researching the social media sites of prospective employees from twenty-two to forty-five percent (Brown & Vaughn, 2011). Similarly, (Clark & Roberts, 2011) compiled statistics from multiple sources spanning from 2006 through 2009, finding similar levels of use by hiring personnel ranging from fifteen to forty-three percent. Studies have also indicated that thirty-five percent of managers have rejected someone due to a social media search. A Microsoft study estimated this figure as high as seventy percent (Kluemper, 2013). It is not surprising that such a difficult to define practice involving a rapidly changing technology would produce wild variations and unclear data in surveys conducted over several years. Still, even by the most conservative findings, social media scanning is not a rare phenomenon.

This practice is growing, not only in prevalence, but in severity as well, despite evidence that some job applicants and lawmakers are beginning to react negatively. After job-seeker Justin Bassett was asked to provide his social media login information to a prospective employer while interviewing for a job as a statistician, he withdrew his application (Strumwasser, 2014). Two federal senators heard about his experience and introduced federal laws to address the tactic, citing possibilities for discrimination (Strumwasser, 2014), but they were not passed (Civic Impulse, 2013). Individual states have passed similar laws, but these do not pertain to searches, only specifically requested private passwords (Strumwasser, 2014).

Throughout my studies as a business undergraduate, the fact that employers routinely looked at the social media pages of job applicants as part of the hiring process was treated as a given in both business etiquette classes and management classes. The inevitability of social media scanning meant it was the responsibility of future job applicants such as myself to prepare for social media scanning without questioning this norm. However, while I am conservative in my own social media use and have not felt it necessary to modify my own online activity, I have been uncomfortable with the likelihood of future employers looking at my social media presence. Looking farther into the future, at some point in my management career I am likely to be on the other side of the table and screen and will encounter this issue again. Rapid changes in technology will enhance organizations' capability to investigate employees and their online activity, continuously modifying the specifics of social media scanning. I know that I find this situation at odds with what I feel is ethical, but I do not know the exact reason.

Definitions

The term "social media" will be used throughout this research to refer to websites that allow users to build non-anonymous profiles and link these profiles with other individuals or organizations. The vast majority of content on these sites is user generated (Brown & Vaughn, 2011). Facebook and Twitter are the most popular of these sites and therefore the most likely to be viewed by businesses according to a 2009 survey of 300 managers (Kluemper, 2013) and they will therefore be the focus of this research. There are new social media platforms being created and terminated constantly. Consequently, there are several dozen social media sites by all but the narrowest of definitions of the term. The reader should therefore consider the term social media to refer primarily to the previously mentioned sites and their most popular competitors. The

practice of using social media in hiring is referred to using varied terminology in current research. For the duration of this study, the phrase “social media scanning” will be used.

LinkedIn is one of the most popular social media sites in the world. However, its primary function is as a tool for companies and individuals to share professional information about themselves. Because LinkedIn profiles are built with the intent of employers viewing them in the hiring process, many of the ethical issues of privacy and personal information versus professional information simply do not apply. Facebook and Twitter can be used to find employment or employees, but this is far from its intended function.

This work will comment primarily on the United States. Most of the research done thus far has been by American researchers. Businesses operate and relate to the public differently throughout the world. Public service industries and non-profit organizations also differ in that they generally hold direct aid to society as a goal. This adds extra variables such as public protection and the lack of pressure for profits and would require their own research. Therefore, I have narrowed the primary focus of this work to American business across all industries.

Methods

The practice of social media scanning is widely accepted in the business community, and these companies would not participate in it if they did not anticipate some sort of competitive advantage. Ethics may just as easily be used to support the practice, and these arguments must be examined. Researching the topic quickly reveals that much less has been published studying the arguments for social media scanning.

In order to investigate and make assertions about the ethical consequences of social media scanning, this research evaluated existing literature within business management and business ethics on the topic. Much of this literature focuses only on the implementation and legal

or business consequences of social media scanning, but this information is necessary to the ethical evaluation. The most important outcome of this business literature review is the identification of the chief ethical concerns. This step is critical because any issue as complex and diverse as ethical hiring practices is sure to provide endless ethical questions. Narrowing the issues present into a small number of major concerns allowed me to apply philosophical literature to the issues.

The philosophical literature review consisted of ethical theories. Ethical theories present either guidelines or rules for ethical decision making in the aggregate. In other words, ethical theories do not make determinations about individual situations. They set up a set of judgment criteria that individuals can apply to any situation in order to make a more ethical decision, making them useful to the topic of social media scanning. I analyzed six prominent philosophical works, the specifics of which will be discussed later.

Next, I synthesized these two literature reviews by applying each philosophical work to the major problems identified in the business literature. I presented each application directly after a summary of the philosophical text, though I researched and reviewed these writings before applying them to this topic. Applying ethical theories doesn't always rely strictly on empirical fact, though it must be logically supported. Logical arguments require both sound and valid reasoning (Hurley, 2006), and using this to discover how my personal unease is supported or explained by these theories is the goal of the application.

Finally, my findings were summarized with the most relevant results and arguments to the investigation will be extrapolated further. I could then look at the arguments uncovered as a whole, and investigate my discomfort with the practice further. Most importantly, I was able to reach some conclusions about managers' role in this issue. Therefore, a recommendation section

supplements the conclusion in order to help managers understand which ethical concerns they should be most acutely aware of when using social media as part of the hiring process.

Current Research in Management Theory

Before determining what philosophical ethics adds to the discussion of social media scanning, I identified the few major concerns suggested by current researchers of the subject and developed many more on my own before streamlining these into major categories. Reasons often cited by hiring managers for social media scanning include gaining insight on the applicant's personality, creativity, and confirming professional qualifications (Kluemper, 2013). Jonathan Segal, a lawyer from Philadelphia, outlined some of the advantages he saw with social media scanning. He acknowledged that there are legitimate legal concerns with social media screening, but argued that the risks are outweighed by the potential benefits. His work cites possible things that can be learned about a candidate from social media, namely, writing skills, charitable hobbies, or racist beliefs. These are examples of types of information that employers look for, not Segal's ideas, but he did say he believes they are useful, saying "Some content posted on these platforms legitimately can be considered to the benefit or detriment of a candidate" (Segal, 2014, p. 20). Segal suggested that companies only allow Human Resource employees to use social media screening as they are more familiar with legal issues involved in hiring. He also recommended waiting to screen until after a first interview when demographic information about the candidate is better known, and to avoid Facebook, as this is often the most personal of major social networks (Segal, 2014). This suggestion though, is not often followed, as multiple surveys show Facebook to be the site most commonly researched (Kluemper, 2013). Organizations also use social media as a tool for identifying people who might be interested in becoming employees, but this again, leaves businesses vulnerable to legal issues (DiMarco, 2014).

Employers are also using social media as a less expensive alternative to traditional background checks. A strong pro-social media scanning argument is that firms could be held legally liable if they fail to properly investigate a job candidate (Kluemper, 2013). In popular culture, we often associate this type of negligence with schools not doing thorough background checks on employees who work closely with children. In our current highly litigious society, businesses can be held responsible for damages resulting from a bad hire, if information was available at the time of hiring. Social media information may be legally classified as available in this sense (Kluemper, 2013). Not only is this a legal issue, but the safety of other employees presents an ethical argument in favor of social media screening to prevent dangerous or irresponsible employees.

Because it takes little time and effort to research a candidate online and specifically through social media, businesses can do more research on every candidate rather than only the most serious job seekers. This gives companies “an easy way to gain a character assessment of candidates...” (Clark & Roberts, 2010, 513). “Character” research can include alcohol or illicit drug use (Brown & Vaughn, 2011). However, this type of attention can quickly merge into personality research. Companies already use social media screening to assess an individual’s fit within the organization. This is a subjective measure that many organizations have incorporated into their hiring techniques in an attempt to foster teamwork in the office and workplace (Kluemper, 2013). It is this use of social media screening that I contend results in what Lauren Rivera calls “Cultural Matching” (Rivera, 2012).

Rivera’s (2012) research determined that managers often make hiring actions based not on merit, but on similarity to themselves. She interviewed managers in several functions including middle management and human resources, all in large, elite, service-based firms. The

interviews included mock resumes containing similar levels of ability, but with different interests and activities. Although Rivera intended to study the effects of gender on hiring, she discovered that cultural matching occurs with other demographic and personal characteristics. She found that managers were more likely to hire people that they perceived to have similar life experiences or participated in similar activities. At the fast-paced, high time commitment companies that she interviewed, Rivera learned that many managers look for someone they will get along with during work hours, as the long hours they worked were so demanding. Intelligence and communication were valued, but as candidates reached higher levels of the employment process, cultural fit mattered more and more. In fact, one manager mentioned that due to a hobby relating to classical theater, a candidate had been deemed “too intellectual” for their company (Rivera, 2012).

Categories of Ethical Concern

After reviewing the current research, I have identified three major categories for ethical concerns with social media scanning. These are personality matching, privacy issues, and discrimination. I will apply the ethical theories to these specific categories of concerns.

Rivera (2012) did not research social media scanning’s role in her findings, but with so much information on cultural experiences and interests available for little cost, social media scanning could play a large role in cultural matching. It seems reasonable to suggest that Rivera’s phenomenon is closely related to managers looking for the “right fit” as mentioned by Segal (2014). An individual’s personality is often clearer on social media than on a resume, as many of social media’s common uses include examples of individuals’ personalities (Clark & Roberts 2010). It follows, then, that social media scanning will grow in popularity in the hiring of these high-level jobs. Examining an employee’s personality and aptitude certainly should be

part of the hiring process, but I question and investigated whether social media adds to this information in a constructive way, or unfairly complicates employment.

Another major ethical concern with social media scanning is the issue of privacy. Individuals have different expectations and comfort levels when it comes to privacy. While the Fourth Amendment to the American Constitution guarantees a freedom from unreasonable searches, organizations who engage in social media scanning would argue that this information is public (Kluemper, 2013). This is another example of social media scanning's legal ambiguity, which in turn raises more ethical questions. Whether or not social media users have a reasonable expectation of privacy will be discussed.

The third category of ethical issues is that of discrimination. Many demographics are legally protected classes. As such, questions regarding them are not permissible to ask in an interview. However, much of this information can be found on social media sites without direct effort to do so (DiMarco, 2014). Employment attorney Chad Moeller explains:

The biggest risk associated with using social media in the hiring process is that information that employers cannot ask about in an interview (think age, religion, national origin, sexual orientation, disability, marital status, family responsibilities, political views and so on) may be readily available online, or reasonably inferred based on the content of an applicant's social media profile and/or postings (DiMarco, 2014 p.46).

These are not among those types of information generally sought by employers, (Segal, 2014; Brown & Vaughn, 2011; Kluemper, 2013), but I find it naïve to think that they do not have any impact on hiring decisions in light of Rivera's (2012) study and my experience with human nature. In addition, one of the behaviors most cited, alcohol use, could land employers in ethical

and legal trouble. Alcoholism is in fact a protected class, as it is legally classified as a disease (Brown and Vaughn 2011). This logically leads employers into the gray area of either rejecting someone with a drinking problem, who may be in a protected class, or rejecting only a casual drinker and missing out on a qualified employee.

There is an abundance of additional arguments that one could make about the ethicality of social media scanning. For the most part though, I contend that they can be categorized into one of these three major issues. I then examined each of these in the context of the ethical theories included in this research.

Literature Review and Analysis

The following ethical theories were chosen because they have been mentioned in both my business and philosophical education. These are also among the more well-known ethical theories, and have been extensively studied and written about. No ethical theory is right or wrong per se, but they do have strengths and weaknesses. Scholarly acknowledgement is the more important factor for an ethical theory, and the following six have been put through the academic process:

1. Utilitarianism
2. Deontology
3. John Stuart Mill's *On Liberty*
4. Virtue Ethics
5. Justice Theory
6. Care-based Ethics

This is the order in which I applied these theories to the issue of social media scanning and the order that I have presented them here. However, no meaning should be inferred from this particular arrangement.

Utilitarianism

Utilitarianism is often credited to John Stuart Mill, an English writer from the 19th century. This is not strictly accurate. Mill did write responses to the idea of utilitarianism, but these were professional critiques, not solid endorsements. The exact origin of utilitarianism is not clear, but English thinker Jeremy Bentham proposed an early codification of what we now regard as utilitarianism (Smith and Sosa, 1969). Mill did write *On Liberty*, a work which does not address utilitarianism directly, but will be discussed in depth later.

According to Bentham, utilitarianism says that the ethical action is the one that maximizes pleasure and minimizes pain. Bentham argues that pleasure is the base cause of happiness, and therefore, is the objective of an ethical action. This is measured through the unit of utilities. Utilities are described by Bentham as “that property in any object whereby it tends to produce benefit, advantage, pleasure, good, or(...) to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered” (Smith and Sosa, 1969, p. 8). In an ethical dilemma, the choice that produces the most utilities of pleasure (or absence of pain), is the best course of action (Smith and Sosa, 1969). Our culture generally describes this principle as the greatest good for the greatest number.

Perhaps anticipating the question of how utilities are measured, Bentham provides a list of four qualities to measure the value of pleasure or pain:

1. Intensity
2. Duration

3. Certainty
4. Closeness

These terms are self-explanatory and will be discussed in regards to social media screening shortly, but I will clarify that they refer to the pleasure or pain, not the action. How long the pleasure or pain caused from an action persists is important, not the length of time the action takes to complete. Finally, utilitarianism focuses only on the outcome of an event, not the ethics of the actions taken to achieve that goal (Smith and Sosa, 1969).

“Good fit” can mean many things for an organization, but the intended result is a more cohesive, and hopefully profitable, workplace (Kluemper, 2013; Rivera, 2012). The most obvious observation is that denying an otherwise quality candidate a job because of a perceived personality difference would cause undue pain to the job-seeker. This is also an example of a time when a loss of pleasure comes into play as being awarded a job naturally comes with pleasure in most cases.

Strictly using utilitarian standards, I see some positive arguments to using social media scanning in determining a potential employee’s fit within the company. When Bentham describes individuals’ pain and pleasure, he also notes that government, or large social organizations, are treated with the same principles as individuals (Smith and Sosa, 1969). While not said explicitly, I interpret Bentham’s meaning to include commerce in this definition. Large businesses like those of modern America were less common when Bentham wrote about utilitarianism, but both societies contain economic activity requiring ethical considerations. Therefore, the overall happiness of the individuals already in the company should be taken into account. If a candidate would lower morale in a company, the pain of missing out on a job

opportunity and having their privacy invaded may be outweighed by the company's avoidance of a poor employment fit.

It should not be forgotten that the numerous individuals who work for the company already, and would theoretically be working with the candidate, have happiness at stake. Not only would they have to work daily with the new hire, but their income would be affected by the candidate's financial contributions. The number of employees affected in this manner is large, but the certainty and closeness measures dictated by Bentham seem more difficult to satisfy. In a company with hundreds of employees or multiple locations, for example a negative personality or one that simply clashes with company culture, could impact only so many employees.

I am also skeptical of the general idea that cultural matching will make a business more successful, regardless of ethics. The idea of dominant logics was introduced by Prahalad and Bettis in 1986. Dominant logics are mental frameworks concerning problem identification and problem solving that are present throughout organizations. They also help find consensus and allow for organizations to streamline and quicken decision making. It is not surprising that a shared work process and industry view would develop in a group of people working closely for a third of their day, but it can lead to some issues (Vansandt, Sud, & Werhane, 2016). They argue that dominant logics, while inevitable to some degree, seriously hinder creative thinking and industry-leading decision making. This is because companies get their processes and problem identification so ingrained that they are not aware of developing problems, or struggle to produce the necessary variety of solutions. Companies that become too imbedded in the routine of dominant logics risk falling behind the competition, especially in dynamic industries (Vansandt, Sud, & Werhane 2016). Because dominant logics occur due to similar backgrounds and thinking processes, and because Rivera found common life experiences to be a strong determining factor in

employment, it is possible that personality matching through social media scanning would worsen this nearly universal problem.

Privacy is a difficult concept to put a value of utilities on. Privacy is generally something that people value, and a clear argument can be made that a social media scan will result in at least some loss of pleasure for the employee. However, in my experience, individuals do not hold congruent thoughts on the importance of privacy, nor do they even hold the same definitions of privacy. It is possible that an individual may have no problem with the practice. Therefore, it is difficult to assess how much pain would be caused by any specific breach of privacy. This does not mean that a practice is acceptable, just that it is impossible to measure correctly. Besides displaying one of the major pitfalls of utilitarianism, I think the inability to measure how much a person will feel infringed upon suggests that this choice should be the employee's, not the employer's. In other words, because only the potential employee knows his or her expectations of privacy, he or she should simply exercise their right to back out of a job application. The end result of some companies using social media scanning and employees who do not feel comfortable with this avoiding these organizations, would be that employees are hired by companies that share their values when it comes to privacy, and likely, personality.

While this may sound like an ideal utilitarian solution, I can only see it working if roughly proportionate amounts of employees and employers have similar views on social media scanning. I would argue that social media scanning is more likely to grow in use than to decline. If this happens significantly, finding a job that does not involve social media scanning may prove difficult, making the option to exclude oneself economically unrealistic.

The issue of discrimination has both direct and indirect utilitarian consequences. In a scenario in which social media scanning causes discrimination against someone due to their

sexual orientation for example, they experience pain from being denied the job. It is true that the person who does get the job avoids that disappointment, and experiences the pleasure of a desired position. While these do cancel out in most circumstances, I would argue that if the discriminated party is repeatedly denied employment due to social media scanning, their pain would be more intense than that of someone missing out a job one time due to merit. In other words, the intensity of the loss of pleasure is likely to be higher for someone discriminated against because of the possibility of repeated denial of employment. The less qualified person does not necessarily have a disadvantage at the next job opportunity, unlike a non-heterosexual person job-hunting in a socially conservative area. A hiring manager's prejudice could also have an impact on current employees' happiness, if their bias causes a poor hire. Of course, the intensity of the current employees' pain would be dependent on how closely the company's employees work with each other.

I will note here that a utilitarian argument could be made that being denied employment due to political preference, or some other protected class, would cause more pain than denial based on merit. However, social media scanning can be done without the subject's knowledge (Brown & Vaughn, 2014), so discrimination, whether intentional or not, would not always be apparent to the victim. In these cases, utilitarianism would not apply as cleanly, as the subject's pleasure is not affected by the social media scan to a greater degree than the person hired in their place because he or she would not be aware of the discrimination.

Overall, utilitarianism does not provide a clear argument that social media scanning poses a significant ethical issue, except in certain cases of a pattern of discrimination, or if the practice becomes so prevalent that any expectation of privacy is misguided. It is too difficult to make a strong case that the intensity of the privacy invasion is strong enough to offset a positive work

environment. Scanning for personality may in fact create a more cohesive work environment, as long as the hiring authority's criteria are not discriminatory and directly work-related.

Deontology

German philosopher Immanuel Kant's ethical theory offers a method for determining what is ethically right based on human reasoning referred to as deontology. While utilitarianism focuses on the outcome of a choice, Kant believed that the ethics of a choice rest on the intentions of the actor and universal rules. Kant argues that an action is only ethical if it is not done with selfish intent, and must be the result of what he terms good will. Kant states that the good will is the only purely good thing. This does not mean a selfish act is inherently wrong, just that it cannot be said to be ethical, even if it has positive outcome (Kant, 1785).

Kant's universal law, or categorical imperative, states that one should only deem an action ethical if they would want everyone in the society to consider that action ethical (Kant, 1785). For example, stealing a library book would cause very little pain if only one person did it, but if this action became universally accepted, libraries would cease to exist. Therefore, Kant would say this action cannot be defended or justified, unless the actor cares very little for public literacy.

Kant adds to his categorical imperative with a practical imperative, explaining that an action should treat other people only as ends and never as a means to any end. He writes, "Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only" (Kant, 1785). In other words, one cannot use another as tool to achieve a goal; an ethical action holds the other person's wellbeing as the goal (Kant, 1785).

Business has changed quite a bit since Kant wrote *The Metaphysics of Morals* in 1785, but I think he would find the practical imperative critical to managers in both time periods. The

model of a for-profit business necessarily treats its employees as a means to the ends of profit. If a company's goal is to make money, it cannot also serve employees' desires completely.

Treating its employees' well-being as the end goal will not be sustainable long term for any firm.

I am in no way saying that a company cannot treat its employees with respect while still being successful financially, and I would argue that this should be an expectation. So, while I do not think it is practical to expect wholesale adherence to Kant's theory in American business without major changes that are beyond the scope of this discussion, a look at his principles reveal some issues with social media scanning unrelated to the employees as means to profits concept. The model of employees as costs of doing business may not fit with Kant's theory of viewing others only as ends and not means. This does not imply though, that individual methods in the hiring process cannot still be evaluated and improved using this rule.

Using social media to match personality and assess strengths doesn't appear to present large ethical problems in regards to deontology. Hiring based on personality could be seen as attempting to take advantage of a person's strengths for company gain. However, I think a stronger argument can be made that this use of social media scanning individualizes a person for the sake of teamwork and the comfort of employees, making them ends. Of course, Rivera's research suggests that people doing the hiring are sometimes using personality to make employment decisions for their benefit, but personality matching's intention is a more cohesive work environment. For Kant, whether this is an effective method for achieving teamwork is not important, it is the intention behind the action (Kant 1785). Scanning for the purpose of uncovering poor behavior or writing skills does evaluate someone only on their ability to help the company financially, but this is no different than standard hiring techniques.

Ethical concerns regarding privacy can be found with Kant's categorical imperative. For any manager to ethically participate in or instruct someone else to participate in social media scanning, he or she would have to be of the opinion this practice should be universally acceptable. He or she would also have to be comfortable with their own social media being inspected by a future employer. As I said earlier, people have varying levels of expectations and preferences when it comes to privacy, so there are undoubtedly many managers who would have no problem with their own social media being scanned. Therefore, because I have established that I am uncomfortable with a potential employer researching me on social media, Kant would argue that I should refrain from the use of social media scanning as a hiring manager. This argument sounds like the common idea of treating other the way you want to be treated, but this is part of care-based ethics and will be discussed later. The logical mechanics behind the arguments are different, even though they arrive at a similar conclusion.

Expectations of privacy are not just individual preferences. American society is in constant argument over online privacy, governmental surveillance in the post-9/11 world, and the definition of the 4th Amendment. Just as I am uncomfortable with social media screening being used to find out information about me, I think online privacy will be threatened by many similar issues in the coming years. Kant does not specifically address what "rules" should be the basis of a society, only how and why they are applied. I would reason, however, that pragmatically, decisions we make about one issue in privacy should reflect the way we would like our society to handle all issues involving privacy. An extreme but common example of this logic is vigilante violence. Society may applaud individual instances of this type of action; say the common trope of the murder of a convicted pedophile, but its full acceptance could lead to a more violent society as a whole. I am not arguing social media scanning gaining popularity will ruin our

society's concept of privacy on its own. I am interpreting the categorical imperative to address the entire practice of social media scanning as it relates to the concept of privacy, instead of relating one action to the practice.

This path of logic can also be applied to the issue of discrimination. If a manager deems it ethically acceptable for themselves to participate in a practice where discrimination can result, I believe that they must believe one of three things in order to fulfill Kant's ethical requirements:

1. Social media scanning will not uncover any information about an individual that could lead to discrimination based on non-apparent factors.
2. All managers can be trusted to avoid using this information in a discriminatory way.
3. Discrimination is not a problem.

If the manager finds any of these statements to be false and decides to use social media scanning, then I argue that he or she should be aware they are taking an action might result in discrimination.

As a user of social media, I disagree with statement one from personal experience. A person's religion and political preference are one to two clicks away from their main Facebook profile, and while this screen can be avoided, profile pictures containing same-sex partners, places of worship, or marital status would be virtually unavoidable in a Facebook search. Suggesting that religious or lifestyle biases are absent in all managers who make hiring decisions is not a provable argument simply due to the number of people responsible for hiring in American businesses, particularly when subconscious biases are included. As Rivera found, managers are more likely to hire someone they find similar to themselves, making subconscious discrimination more likely.

Deontology does not provide a definitive argument for or against social media scanning, but it does offer a logical explanation for my unease with the practice. I do not oppose technological innovation, but I am concerned with privacy and discrimination issues that it will present. Therefore, unless I would will that social media scanning continue to be used commonly, I should not participate. This argument may not be convincing to an individual with a more relaxed view on privacy or discrimination, but for someone deliberating about where the ethical line should be drawn, I contend that it is a critical question for the decision maker to answer.

John Stuart Mill's *On Liberty*

John Stuart Mill was a 19th century English thinker and political writer. His 1859 book, *On Liberty* describes his opinions on ideal government and societal norms regarding personal freedom. His writing was prompted by the formation of less-tyrannical governments, as the western world became less dominated by war. Anticipating more democratic forms of government, Mill focuses his ideas on how to balance the wishes of the majority with the rights of the minority. *On Liberty* explores the “nature and limits of the power which can be legitimately exercised by society over the individual” (Mill, 1859, p. 3), concluding that harm to others is the only reason for legitimate legal action. Some actions, he argues, are simply going to be disliked even if they do not cause harm to others. Christian norms of dress, worship, and relationships in 1850s England are the examples of these majority restrictions used *On Liberty*, but they exist in all parts of all societies (Mill, 1859).

While Mill's ideas relate to what actions and behaviors are ethical for societies to regulate through the tool of government, I will make the argument that they can also be applied to employers. Employees are not required to remain under the control of a particular employer as

they are a government, if only by feasibility. However, in a competitive job market and a society where living a reasonably comfortable life is not possible without an income, employers have a great deal of power over employees.

Like societies, companies have distinct cultures, norms, and dominant logics (Vansandt, Sud, & Werhane, 2016). Each employs a variety of people from different backgrounds, and larger companies have distinct departments and subgroups. Managers at the top of a for-profit business do not have to worry about reelection by those below them as a democratically elected leader does, but they do have to perform in order to keep themselves in power. There are many differences between the two as well, but these similarities, among others, justify applying Mill's ethical thoughts to them when analogous. This logic supports the argument because businesses resemble governments more than individuals as far as hiring ethics are concerned, that they should be held to at least some of the standards set forth in *On Liberty*.

Individualism is a very important value for Mill. He goes as far as to say "Whatever crushes individuality is despotism" (Mill, 1859, p. 77). While I think this statement crosses into hyperbole, I agree with Mill that individuality is an important part of a happy society. I find it unlikely then, that Mill would disagree with me that cultural matching in organizations is a threat to individuality in the workplace and that using personality to choose economic winners encourages uniformity. When social media scanning is involved, these personality expectations then extend to social media behavior.

There is, however, another way to apply individualism and freedom from the majority to cultural matching. If one did not buy my argument that modern businesses are more akin to social institutions such as government than they are to individual actors, they might argue that as property, and thus an extension of an individual or small group, they should be able to hire who

they choose through whatever methods they choose. For a small business, say a family owned hardware store with eight employees, this argument makes sense. Those doing the hiring of candidates are much more directly impacted by the potential employee, and I think they have a strong ethical argument for control over the personality and culture of their company.

For a large or medium-sized corporation, though, this argument is less convincing. A company that employs 10,000 people is not going to place the responsibility for social media scanning for hiring middle or low management at the foot of the CEO. In addition, the CEO or board are not the owners of a publicly traded company, as the hardware-selling family from earlier are.

In public corporations, I think hiring activities are too far away the stockholders to make a strong case for cultural matching being a factor in ownership's controlling their company's destiny. Certainly, an organizational culture will form in any company, but I think using social media scanning to facilitate it on behalf of very distant owners may be at odds with Mill's writings.

Privacy is not a concept that is discussed directly in *On Liberty*, but Mill does distinguish between private life and public life as he argues that actions are often deemed culturally unacceptable when there is little basis for declaring them ethically unacceptable (Mill, 1859). I believe from Mill's dislike of outside entities judging personal behavior that he would be uncomfortable with a platform like social media being used to investigate a hire's personal life. *On Liberty* argues that personal choices are legitimate to make without societal censorship. Mill strongly points out that this does not mean we cannot judge others, just that we take no action to stop our neighbor save that we have reason to believe that they are endangering others (Mill, 1859).

While the above argument pitting individual autonomy of a business against potential employee autonomy strongly applies to the following argument, Mill might argue that refusing employment is a form of social coercion. This is because, according to Mill, not punishing someone for their behavior is not the same as condoning it. Therefore, hiring someone is not the equivalent of condoning their personal choices. Like Mill, I would find no problem with judging an employee's drinking habits for example, but I believe a larger reason must be present before employment action is taken.

Behaviors such as alcohol or profanity use or inappropriate photos online may be a red flag for some employers because of concerns about poor job performance, or ethical issues in the workplace (Kluemper, 2013). I find this questionable reasoning because it assumes that these are either unethical actions, or reliable predictors of poor job performance. Mill would not classify these behaviors as unethical as no unwilling parties are harmed; assuming the alcohol use documented online was not explicitly linked to driving while intoxicated. Kluemper does mention other red flags that I find to be strong predictors of job performance, most notably racist rants online, though he does note that this is an extreme example (Kluemper, 2013). Mill is also conscious of the difficulty of identifying what is and is not unacceptable speech (Mill, 1859), a difficulty made evident in our society's current struggle in defining what constitutes racially insensitive speech.

The previous discussion about privacy relates closely with discrimination. When Mill wrote *On Liberty* many of the demographics now protected by law were unprotected. In fact, Mill was an outspoken proponent of women's rights, penning the book, *The Subjection of Women* in 1869. Mill writes extensively about religious and sexual choices being free from sanctioning. As his reasoning is that these do no harm to others, race, marital status, sexual

orientation, and gender would fall under this category as well (Mill, 1859). These are not the traits that are the focus of social media scanning and employee research, but I will reiterate my argument that information about them is too accessible, particularly on Facebook, to be completely avoided. Mill's work shows little faith in humans' abilities to not allow personal biases regarding these differences to affect their decision making (Mill, 1859). I therefore, think it is likely that Mill would agree with me that social media scanning increases the likelihood of discrimination against protected classes.

In addition to the well-known protected classes, alcoholism is a protected class. This is because the law classifies it as a disease, therefore protecting it as a health concern (Department of Justice). This is an important fact because it adds to the chance that choosing not to hire someone due to alcohol use online is an discriminatory, and therefore, unethical act. Not only may this be an inaccurate judgement, but it may also discriminate against someone due to a legally protected ailment.

Not surprisingly, Mill's focus on individual freedom and personal choice raises plenty of arguments against social media scanning. In my opinion, the strongest argument comes from Mill's separation of judging a person's actions personally, and trying to control these actions. This means I can make the decision to avoid sitting by someone using profane language on a public bus, or choose not to invite an acquaintance to a party because we do not have personalities or interests that make us close friends. These types of choices would be fine with Mill, while legal action banning profanity or requiring all acquaintances to receive equal invitation status would be ridiculous legislation.

Logically then, the question is whether or not hiring choices are more similar to social rejection, or legal punishment as far as ethics are concerned. I find them to be closer to the latter

because employment, particularly in today's economy of fewer and larger employers, have a larger and more direct impact on the subject's life. A person's life will not be significantly affected if their language causes me to avoid them on a bus, but choosing a different job candidate may drastically affect their standard of living and ability to provide for their family, albeit likely only in the short to medium term. Because the consequences for the behavior in question are closer to legal action than personal judgement, employment decisions based on personal choices raise serious ethical issues in conjunction with Mill's writing.

Virtue Ethics

Aristotle's *The Nicomachean Ethics* is the next work that I will discuss. Published almost 2400 years ago, it is not a formal ethical theory, but rather, a compilation of Aristotle's observations on ethics and theories on living the best life. It can be thought of as a detailed collection of lecture notes of one of the greatest thinkers of the era.

The Nicomachean Ethics shares some elements with utilitarianism. Aristotle determines that ethical actions should seek the good, and that the ultimate good is happiness. However, they differ in that Aristotle does not believe that happiness comes directly from pleasure, as Bentham does. Instead, for Aristotle, happiness is the perfect virtue, and is achieved through a virtuous life. Virtue is the center of Aristotle's observations, and is defined as gaining pleasure through virtuous acts (Aristotle, 350 B.C.). This definition sounds both contradictory and redundant based on the previous paragraph, so I will quickly clarify. It is true that Aristotle does not believe pleasure is a goal, but he does use it as part of his criteria for virtue. He was concerned with pleasure only in that one receives it from virtuous acts. It means nothing and has no value on its own. When Aristotle says that virtuous people are those who enjoy virtuous acts, it doesn't seem as if he is saying much. What is important here is Aristotle's interest in the intent of the actor,

much like Kant. If someone is not gaining pleasure purely from the act itself, an ethical worth cannot be applied to it (Aristotle, 350 B.C.). For example, Aristotle would say that a woman who started a scholarship for seniors graduating from her former high school is virtuous if she gains pleasure strictly from helping others, and not for social gain. However, someone paying taxes to support the school is not taking an action of ethical note because there is a penalty for not contributing.

There are numerous virtues, and Aristotle describes them in too much detail to go into depth with each. Studying each individual virtue also misses the point. Aristotle argues that the virtues, such as courage, are a state of being and not something one achieves once. Again using the example of courage, one who is reckless and unafraid has too much of the virtue, and a cowardly person has too little. Finding this balance takes lifelong practice, according to Aristotle (350 B.C.).

Because *The Nicomachean Ethics* does not describe a specific method for deciding what the most ethical decision is in each situation, but rather a mindset for living a virtuous life, I will be focusing this section on what a virtuous person (by Aristotle's definition) would consider when deciding to engage in social media scanning.

Aristotle divides friendship into two categories: the rare, life-changing friendships that last throughout life and the casual, positive interactions we have with everyday acquaintances (Aristotle, 350 B.C.). It would be quite unrealistic for managers to seek the first type of friendship, but some research, particularly Rivera's (2012), suggests that managers might be using cultural matching to go beyond simply pleasant working relationship as Aristotle describes in the second type of friendship (Aristotle 350 B.C.). This does not make for a clear argument against social media scanning because there is no ethical imperative that Aristotle sets forth to

categorize his two types of friendships based on the professional nature of the relationship.

However, from Aristotle's description, quality friendships based on shared interests must be focused on and worked toward (Aristotle, 350 B.C.). In business, I argue that these types of close friendships should not be the goal of hiring if the process is to remain fair. The goal should be related more closely to Aristotle's writings about judging one on their competence at their craft.

In discussing the virtues, Aristotle makes the assertion that success in life is defined by one's ability at their assigned task. He uses the example of a muse's virtue being tied to the quality of his lyre playing and story-telling. The modern axiom says that one should not judge a fish by its ability to climb a tree is closely related to this idea. Just as virtues take balance and practice to achieve, Aristotle sees the mastery of one's purpose as an end goal in itself.

Therefore, when analyzing a job candidate, Aristotle would advise a manager to put maximum focus on their qualifications and likely job performance. Undoubtedly, part of a job applicant's effectiveness is his or her ability to work with people and be part of a team. Judging a candidate on these qualities during their interview or on charitable activities on their resume would not be out of line. Some social media scanning may fit this description. I do not think a quick look at a candidate's social media looking for aggressive, discriminatory, or abusive behavior would be completely out of line with this reasoning. The problem with this plan is the difficulty of limiting what a social media scan uncovers once it has begun.

When considering the ethics of privacy in the context of Aristotle's writing, the concept of balance should be foremost of the minds of hiring managers. While respect for privacy is not an articulated virtue like courage or pride, ethical conflicts involving privacy share a structure. Too much respect for privacy in the hiring process would make informed hiring impossible, let alone impractical, while I argue that disregard for personal privacy violates both American law

and common expectations of the public. Similarly, Aristotle says that too much pride leads to vanity, and too little to undue humility (Aristotle, 350 B.C.).

For managers, this means that there is no hard and fast rule to how much respect for the privacy of job applicants is required, just that a balance is found that respects both the applicant and the need for information on possible employees. This conclusion is quite vague in its instructions for ethical social media scanning, but that is the point. Aristotle repeatedly stresses that balancing virtues is not something that one can simply follow instructions towards, it is a skill that is learned through practice and experience. I will also point out that this means each hiring situation will require judgment on the appropriateness or extent of social media scanning. A company and its employees may have more at stake in the hiring of a manager who will be in the public spotlight, though this is usually not the case for the low to mid-level managers I am considering for this research. Still, if circumstances led this to be the case, more social media scanning might be reasonable. In these situations, I reason that older, more experienced hiring managers would be better equipped to make ethical determinations in social media scanning decisions. They likely have more practice with ethical issues in the workplace, something I believe to be a requirement for virtuous decisions under Aristotle's view.

Discrimination in the way that we think of it today would be a foreign concept to Aristotle. Ancient Greece was a socially advanced society compared to its contemporaries, but ideas like equal employment opportunities for women and wealth mobility were not among their values or practices (Clohesy, 2016). On the other hand, modern American society has determined that certain groups are entitled to legal protections, even if this does not always occur in practice. So how can Aristotle's writings still add to the discussion on discrimination concerns in social media scanning?

The most relevant of Aristotle's concepts to the discussion of discrimination is the idea that a person's virtue is derived from their competence at their given profession. The logical reasoning Aristotle uses to get to this conclusion is different from the ethical logic behind anti-discrimination protections and values. I will argue though, that they both can be used to support evaluating someone strictly on their job performance, and not outside factors like race, marital status, or other protected classes. Both place value on the person's performance, and not their social position or standing. To be sure, this line of reasoning applies modern concepts of equality to an argument written in a different context. It does provide yet another ethical reason to avoid discrimination in the workplace.

What it does not offer, is conclusive evidence to the ethicality of social media scanning, unless one accepts my earlier argument that social media scanning is likely to increase both conscious and unconscious discrimination. Therefore, similar to my conclusion on privacy, managers need to make a determination based on the specific circumstance at hand. Managers should determine exactly what information they are looking for during social media scanning, and confirm that they are, in fact, directly related to job performance.

The Nicomachean Ethics does not provide a set of rules for ethical decision making, but it does provide an examination of the life of an ethical person. I argue that an ethical person, by Aristotle's standards, would approach social media scanning on a case by case basis. They would keep the focus on relevance to job function and performance when going through information obtained from social media. An ethical manager constantly considers whether or not social media scanning is necessary, and puts thought into striking an acceptable balance between employee and employer interests.

John Rawls' Theory of Justice

John Rawls was a 20th century American philosopher who wrote and taught at Harvard. Like Mill, Rawls primarily wrote about political structure, and his famous writing on justice has distinct political implications. *A Theory of Justice* was published in 1971. In it, Rawls argues that “Justice is the first virtue of social institutions” (Rawls, 1971, p. 3). While much of the book concerns the social institution of government, Rawls does explicitly extend the scope of his ethical theory to include competitive markets and means of production (Rawls, 1971), and I argue consequently, individuals acting on behalf of for-profit businesses.

The Theory of Justice is described most clearly by Rawls through a thought experiment. Justice is achieved when society is arranged in such a way that an individual would agree to it without knowing where they were to be placed in said society (Rawls, 1971). In other words, a society’s structure is not just unless one would accept that structure without knowing what position they would be assigned within the society. The best way to think about this concept is through income distribution. A person should be able to look at the wealth of various members of a society, know they will be randomly assigned a percentile of income, and not will the society to change.

How does the Theory of Justice fit in the context of business hiring, and what is the role of social media scanning? Without knowing whether or not one is qualified for the position, or even what position it is, they would have to accept the norms of the process in order for it to be a just procedure. More importantly, they cannot know if they are the CEO, a potential employee, the employee tasked with conducting social media scanning, or future team member of the potential new employee.

The most important quality of a hiring system that would be suitable for each of these stakeholders is that all decisions are based on merit. Job performance should be the only factor

under consideration. With this rule in place, anyone placed in the job market would know that with whatever skills and talent they have will be justly rewarded. Whether I was made a recent college graduate looking for their first job, a small business owner, or an experienced CEO I would want this to be the driving rule in hiring. This is not to say that an individual's personal strengths and weaknesses are unrelated to their ability to perform at work. There are however, methods other than social media to find some of this information such as the physical or vocal interview and references from past employers. Both of these give a better picture of who the person is in a professional setting.

Social media scanning is regarded as a tool to achieve this goal (Segal, 2014), but I think it could be an opportunity for factors other than merit to play a role in hiring, particularly through cultural matching and discrimination. I do think that teamwork skills and having an agreeable relationship with coworkers is job related, but I disagree with the argument that social media scanning is an accurate way of obtaining this information. There is some evidence that that Facebook pages can give employers an accurate view of general personality traits (King, 2012). However, not all information on social media is created by the subject of the scan. Friends of the person can create content that shows up under their name (Kluemper, 2013), and I would also argue that pictures and statements on social media can be taken out of context. Despite some of Rivera's (2012) findings, I think most possible instances of a less-deserving candidate getting a job due to cultural matching through social media scanning would be due to similar life experiences and common interests causing subconscious biases. Whatever one thinks about cultural matching or social media scanning, they both seek to employ the most qualified candidate. This then, is not what I consider to be social media scanning's largest incongruity with my interpretation of Rawls' writing.

Purposeful discrimination is the bigger ethical threat to the preservation of merit as the determining employment factor. As has been discussed earlier, American society as a whole has determined that protected characteristics are not determining factors regarding job performance evidenced by the fact that hiring or not hiring based on them is illegal. Part of the reason for this is that the supremacy of merit in hiring decisions is threatened by discrimination. I argue that there are many scenarios where social media scanning can provide information about job applicants that can lead to discrimination. For example, a social media scan of Facebook is very likely to reveal the marital status of employees through pictures, or prominent posts. The scanner does not have to search for these, and they are likely unavoidable. If a male manager was to interview two women for a job that he would work closely with, both of whom he found attractive, I do not think the information that one was married and one was not would be inconsequential. The manager could reason that a romantic outcome is more likely with the unmarried woman, and be tempted to give her the job, even if she is less qualified. Inversely, he could choose to avoid the possibility of an affair and choose the married woman for the position. If this situation did result in a hire not based merit, this would be the ethical failing of the manager in question, and not the result of social media scanning directly. However, I would argue that it is reasonable to expect managers to take possible outcomes such as this into account before deciding to engage in social media scanning.

The potential of social media scanning to bring factors other than merit into the hiring process is among the strongest of my reservations with the practice. When factors other than job performance determine economic advantage, it follows that where one is placed in an economy may have a greater influence on success than would be acceptable to a person blind to their own standing. As someone on the lower power end of the hiring process, I would only see hiring as

just if talent is rewarded rather than personality traits unrelated to job performance or more importantly, demographics. To be sure, this is a widespread and long-term problem not at all introduced by social media scanning. However, if this issue is not considered, it makes hiring based on factors unrelated to job performance more likely. Finally, while respect for privacy is a rule that I would find necessary to accept an unknown position in the hiring process, expectations of privacy may not be the same for each individual. This would mean that determining when the majority of people feel a line has been crossed would be nearly impossible.

Care-based Ethics

Care-based ethics is commonly known as “The Golden Rule” in American society. It is one of the most commonly used and oldest ethical principles and the only source of ethics for many people. All major world religions contain a form of this principle. Care-based ethics depends on the axis of “reversibility” (Kidder, 1995). This means for an act to be ethical, Kidder writes, you must be able to “test your actions by putting yourself in another’s shoes and imagining how it would feel if you were the recipient, rather than the perpetrator, of your actions” (Kidder, 1995, p. 25). In theory, care-based ethics sounds similar to Rawls’ Theory of Justice as they both involve imagining oneself in another’s position. However, they differ in that in care-based ethics looks at a specific situation and the individuals involved while the Theory of Justice makes broader determinations on societal rules and social positions. Care-based ethics raises some straight-forward and simple ethical concerns with social media scanning. Fortunately for managers, it is very easy to implement for individual situations, but this means that an overall conclusion regarding social media scanning will not be possible.

It is simple reasoning that to adhere to care-based ethics, managers should determine which personality traits of their own they would be comfortable having investigated through the

use of social media scanning. Complications arise in the fact that this answer will be different for each manager, making an overall judgment on social media scanning difficult. My personal concerns about social media scanning in the context of personality matching stem from this point. I see two possible errors in judgement that could result from social media scanning for this purpose: too much inaccurate information, and too little accurate information.

While these sound like a different way of stating the same issue, they are not. Reading too in-depth into social media posts, particularly those created in the distant past, can uncover posts made when the subject was less mature. It can also produce posts made by friends, and in some cases, both content from a friend in a less-mature stage. Of course, it is easy to identify age and source of content on a subject's page, but the context of the content is still missing. Posts a subject is not comfortable with an employer seeing can be removed, but this is not a full excuse for a manager to conduct a social media scan. The argument that "I would have deleted that, so I wouldn't mind someone else looking" may be convincing enough for some, but it doesn't put the manager in the exact same position as the subject.

My personal social media activity makes me more uncomfortable with the possibility of relevant information not being present in a social media scan. I rarely create content on social media, so I feel that an accurate picture of my personality would be harder to attain through social media scanning. This is why I argue social media scanning for personality may give people who are naturally more active on social media an advantage in the hiring process. A manager looking for a particular personality may not eliminate someone with very little personal activity online, but they may be drawn in by busier profiles. Scanning social media for negative information, or red flags only, wouldn't encounter this problem, but this does not describe all

social media scans. As a manager, I would have to refrain from personality based social media scanning for positive personality traits, as I would find it unfair to be the subject of the scan.

Privacy concerns in a care-based ethics system are much simpler to assess. When determining if and how a social media scan will be conducted, a hiring manager needs to consider their own feelings on privacy. If they would not want a social media scan of their online presence conducted, care-based ethics would not allow a scan. This also works when considering how in-depth the scan should be. I personally would find an employer looking through my photos on social media to be an invasion of privacy. They would provide little information on my ability to be an effective employee and give them more personal information than I would want without my explicit consent. Care-based ethics allows for more than a yes or no decision regarding privacy. Ethical managers can use care-based ethics at each step of the social media scanning process to decide when to go ahead with or refrain from individual actions from engaging in the process itself, to a single click of the mouse.

Discrimination does not necessarily allow for managers to ethically customize exactly when and how intensely to investigate social media. This is because while the person conducting the social media scan has prior knowledge of what they would find to be an invasion of privacy, they would not know what discriminatory information the search would uncover. The information is not known to exist until it has been seen. Thus, care-based ethics would dictate that managers imagine themselves in the place of the potential employee before doing the scan and deciding whether or not they would want an unknown imaginary manager looking at his or her social media. They also need to take into account that they do not know if the imaginary manager holds any biases against his or her demographics. At this point, a manager might say that they are bias-free, and thus discrimination would not be an ethical issue that applies to them.

This may very well be true in a limited number cases, but subconscious biases would likely still result. Unless the manager would trust a stranger to be free of bias, it may still be ethical to refrain from all but the most shallow social media scans.

Care-based ethics provides a quick, single criterion that managers can use before, or in some cases during, social media scanning. It is particularly useful in the issue of privacy, where there are many variables in play. Imagining roles in a given scenario being reversed is a quick exercise that can be applicable to and take into account these variables. It has a weakness, though, in that it doesn't easily lead to any consensus for policy purposes. This includes legislation, but I think more importantly for ethical questions, corporate policy. The manager conducting the social media scan may not always have the freedom to be flexible depending on company policy. As each person in the company would apply care-based ethics slightly differently, an argument from this method of ethics from a single person would have little power.

Discussion

There is one strong counter-argument to the statement that social media scanning is an unethical practice. The content of social media is by definition user generated and at least in part public, and thus the argument could be made that any negative consequences of social media content is the fault and choice of the job candidate (Kluemper, 2014). Because of this, the argument suggests job candidates should know that some information, such as red-flag behaviors like drinking or swearing as well as personality quirks and alternative lifestyles on social media may be possible deterrents to employers. This argument does not address the issue of discrimination satisfactorily for me, as it puts the responsibility of preventing an illegal activity on the victim, but it does raise the point that social media users do consent to the viewing of their

content by unknown parties. At first glance, this seems like a convincing argument, and it does effect some of the ethical theories I've studied.

When it comes to privacy concerns and red-flag behaviors, this argument may hold weight. In Kant's argument that we never use another as means to an end, one could infer that if the candidate is knowingly portraying him or herself in a certain way, they are not being used as a means. I do not find this to be a definitive argument though, as Kant's universal principle is the stronger argument against social media scanning.

Mill's writings in *On Liberty* repeatedly stress individual choices and responsibility. Protecting privacy is a big part of the argument against social media scanning based on Mill (Mill, 1859), and the argument that social media is open to employer's use because of the implicit consent of the subject weakens my argument. Personal responsibility is expected in the workplace as well, and a strong argument could be made that a poor choice on social media displays a lack of personal responsibility. This applies to red-flag behaviors, but could also include strong statements of personality that may sway an employer trying to find a good cultural fit.

Aristotle's writing in *The Nicomachean Ethics* does not cleanly overcome this argument either. Temperance is among the virtues Aristotle focuses the most time on. Showing one's personality on social media, but avoiding damaging material would fulfill this virtue, and Aristotle would likely applaud this type of social media behavior. Hiring managers could then reason that a virtuous employ would have a professionally attractive social media presence, justifying social media scanning, though I do not agree that a positive social media presence should be a requirement for a job in addition to a lack of online red flags.

Utilitarianism, meanwhile, is unaffected by the argument that job candidates implicitly accept a social media scan by being active on social media and applying for employment. This is because the amount of pleasure is the variable of concern and the justification of the action is not. However, my analysis of utilitarianism's arguments against social media scanning proved to be the weakest. I thought myself partial to utilitarian logic prior to this research, but after examining the exact arguments, I found that utilitarianism cannot explain my discomfort with prevalence of social media scanning.

Rawls' Theory of Justice and care-based ethics both stand up well to this argument because they put the manager completely in the position of the subject of the social media scan, which makes it more difficult to dismiss privacy expectations and forces them to look at their own social media behavior. It is entirely possible that many managers would have no problem with social media scans being conducted on them, but some, like my future self, may not.

Care-based ethics holds three advantages over Rawls' theory. Firstly, ethical philosophers have criticized Rawls' theory for accurately describing the way men view ethics, but not being as applicable for women (Gilligan, 1982). Secondly, care-based ethics is a much more accessible and popular ethical method, and is more likely to be adopted and used by managers. Finally, while the Theory of Justice was designed with economic ethics in mind (Rawls, 1971), the small details of an individual job application and screening likely won't apply as directly as a simple "Golden Rule" analysis in the time constrained environment of hiring. Care-based ethics is also a much more compact, relevant, and convenient method. Reviewing my personal ethical instincts at the end of this research, they match this conclusion. The exact reason I would not like to be the subject or administrator of social media scan still eludes me, but I can more accurately describe the philosophical underpinnings of my instinct.

Limitations

Unlike scientific theories, ethical theories cannot be proven through conventional methods. I was unable to come to any form of a yes or no conclusion on the ethicality of social media scanning, though I did not expect to. Instead, the value of ethical theories or lack thereof, lies in logical arguments. Management research has raised valid arguments against using social media in hiring, but with little attention to why the practice violates ethical values.

Putting this issue in the context of ethical theories is necessary but also less straightforward than would first appear, because the major principles were developed before the invention of the use of social media in hiring, before social media, and in a completely different business environment. Therefore, none of the works to be examined here were written with this issue in mind. This means findings came from my logical reasoning based on the material and not directly from the material itself, adding another layer of reasoning and thus opening another yet another possibility for contradicting arguments. Fortunately, ethical theories are designed to be applied to a variety of situations.

Finally, it should be noted that determining the ethical validity of an act is not a task that reaches a definitive conclusion. While this is a limitation, it is not an unexpected outcome of this type of research. The interpretation of these major philosophical works is widely accepted, but their application to individual situations is not. Disagreements with my logical reasoning is expected and encouraged. Expanding dialogue and spurring individual thought are the true goals of this work.

Recommendations

What then, can managers do to improve the ethicality of their decision making in matters concerning social media scanning? There is no exact answer to whether or not the practice is ethical in general, but this means managers have great flexibility, and thus responsibility, in their decision making. I recommend that managers make themselves aware of the ethical issues involved in each social media scan. This doesn't mean doing an in-depth analysis on the scale of this one for each instance of hiring, simply that the manager takes the job description, future coworkers, and their own moral compass into account before making a decision. A good set of questions that a manager could ask him or herself before commencing a social media scan would be:

1. Am I looking for positive or negative traits during the social media scan?
2. Are these traits explicitly linked to job performance, and can I articulate this?
3. How far back in time will I investigate?
4. Am I aware of my personal biases and experiences, and am I prepared to compensate for them?
5. How much social media scanning would I be comfortable with if I were applying for this particular job?

If a manager does not feel that they can confidently answer and ethically justify each of these questions before beginning a social media scan, I argue that they are not properly prepared to judge the ethicality of a social media scan. Having an answer to these questions is not a full green light for a scan, but they are a good place to start and a necessary step for an ethical treatment of the issue.

Companies can play a role in the ethical use of social media as well. Addressing the issue with a company-wide policy is a good idea, but I would be cautious about making it too detailed

or rigid. What ethical theories allow that restrictive policies do not is the ability to adapt to any situation. This is their purpose. Policies can allow for some of this if constructed correctly, but this is easier said than done, and I would recommend a less-structured approach.

Future research on social media scanning in business hiring is needed in determining its effectiveness. Statistical analyses of positive or negative effects on employee turnover rates and productivity would aid the ethical discussion of the subject. This could provide yet another argument against social media scanning if social media scanning proves to be unhelpful. On the other hand, knowing more about the effectiveness may result in more companies wanting to engage in social media scanning. In this case, an understanding of the ethical issues will be even more important.

Conclusion

None of the theories discussed prove, in the traditional sense of the word, that an action is unethical. They use reason to explain why the rules that they lay out are the best tools for ethical decision making. Therefore, my focus has been on answering the question of what the individual ethical concerns are with social media scanning, and not a blanket statement of ethicality. This will be more useful to managers during the variety of hiring situations they will encounter and will be addressed in the recommendations section of the research. Still, there are some big-picture conclusions that can be drawn from my investigation.

First, each ethical theory examined here can be used to argue against the use of social media scanning. However, utilitarianism, *On Liberty*, and virtue-ethics can also easily be used to support the practice. I do not feel that I can legitimately rank these ethical theories, though care-based ethics would likely rank highly with utilitarianism ranking near the bottom.

Secondly, and more usefully, I found that both the business and personal intentions of the individual executing the social media scan are the most important variables in determining the ethicality of a particular scan. For this reason, my recommendations for individual managers are the most important outcomes of this research. Taking personal responsibility for individual knowledge of and use of ethics is the best way to transition the ethical work done the human race in the last two thousand years into the digital age.

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