

**RECONSTRUCTING AN ETHICAL COMPASS:  
WHO IS RESPONSIBLE? WITH WHOSE MANDATE?**

**AN ETHICAL COMPASS FOR THE DIGITAL AGE**

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Nien-hê Hsieh  
Associate Professor of Business Administration  
Harvard Business School  
nhsieh@hbs.edu

Who bears responsibility for reconstructing an ethical compass for our economy in the digital age? Whose mandate should inform this reconstruction? This paper aims to help frame and inform debate on these two questions. To this end, this paper is just as much about proposing answers to these questions as it is about clarifying and breaking down the questions themselves.

The paper is organized as follows. In the first two sections, I elaborate on the questions themselves. In the first section, I clarify what might be meant by asking who is responsible for reconstructing an ethical compass for business and economic activity. As part of this discussion, I distinguish three levels for reconstructing such a compass and how the responsibilities of actors may vary across these levels. The three levels are briefly: the *identification* of principles and values that comprise a reconstructed compass, the *promulgation* of a reconstructed compass, and the *application* of a reconstructed compass. In the second section, I turn to the question of whose mandate should inform this reconstruction. What emerges from this discussion is a proposal that any version of a reconstructed compass include two principles: a principle to do no harm and a principle to respect human rights.

In the third section, I examine what it is about the digital age that calls for reconstruction of an ethical compass. Given the pace of technological change and the impact of the digital economy on people's lives, it is not uncommon to hear about the need to develop a new ethics for the digital age. At the same time, it may be asked just what it is about our existing ethical frameworks that are not suited for the digital age. For example, is it that the frameworks themselves are not in need of reconstruction and simply in need of extension to new and emerging phenomena? Or, are there decisions that economic actors now face for which our existing frameworks are silent or even incorrect in what guidance they provide? To illustrate how we may analyze just what it is about the digital age that calls for reconstructing an ethical compass, I explore briefly the ethical issues that arise with three trends associated with the digital age. The first is the disappearance of work owing to automation and artificial intelligence. The second is the challenge of maintaining privacy in the digital age. The third is the rise and prevalence of social media. What emerges from this analysis is that depending on the issue, the case for reconstruction may apply at one level, say application, but not at another.

## **1. WHOSE RESPONSIBILITY?**

In this section, I clarify what might be meant by asking who is responsible for reconstructing an ethical compass for business and economic activity. As part of this discussion, I first elaborate on what is distinctive about framing ethics in terms of a compass. I then distinguish three levels for reconstructing such a compass and how the responsibilities of actors may vary across these levels.

### *1.1. The Image of an Ethical Compass*

By an ethical compass for business and economic activity, I take it that what we have in mind roughly is a set of principles and values to guide the behavior of individuals engaged in business and

economic activity in terms of what is right or good. In this sense, the ethical compass is no different from other concepts, such as an ethical framework or an ethics for business.

At the same time, the image of a compass brings to mind some specific qualities. A compass is a tool. It is compact and easily carried with us. When we think about when we need a compass, it is usually when journeying in new or unfamiliar territory. Without it, we would be lost. How it guides us is by allowing us to observe what we otherwise would not be able to see or sense, and while each of us carries our own compass, they all point to the same north if functioning properly. All this suggests a framework that is meant to be practical and readily available in providing each one of us with guidance, especially when what is right or good to do in business is difficult to discern, and in a way that makes us all aware of a common set of principles and values.

While no metaphor is perfect, if we adopt this characterization of an ethical compass, reconstructing an ethical compass for business and economic activity can occur at three levels. The first is at the level of specifying or identifying the principles and values to guide the behavior of individuals engaged in business and economic activity. Call this level, *identification*. While this is the primary level at which much debate is likely to occur, there are two levels that are no less important and would seem to follow directly from the idea of an ethical compass. The second is at the level of making available this compass for use by those engaged in business and economic activity as well as supporting it. As described above, an ethical compass is meant to be practical and readily available for use by each of us when engaging in business and economic activity. The direction in which it points is useful only insofar as each of us has access to a compass. Call this level, *promulgation*. The third is at the level of using the compass. This involves abiding by what it specifies in the context of business and economic activity and putting into action the principles and values it specifies. Call this level, *application*. Breaking down the reconstruction of an ethical compass into these three levels

allows us to examine and debate more precisely the nature responsibility for reconstructing an ethical compass for the digital age.

### *1.2. Responsibilities for Reconstruction*

In assessing responsibilities for reconstructing an ethical compass in the digital age, it may help to start with the third level, which is that of application, in that this is a level at which there is reason to believe that all actors bear responsibility. This includes managers (e.g., treating employees with dignity), advisors (e.g., avoiding conflicts of interest), customers (e.g., not abusing warranties), employees (e.g., not sabotaging fellow workers), and investors (e.g., conducting due diligence).

If there are degrees of varying responsibility across actors in applying a reconstructed ethical compass, one thought is there is a greater responsibility on the part of actors who are at greater risk of engaging in behavior that violates the principles or values specified by the compass. For example, if one of the principles is to avoid harming third parties (a proposal to be discussed below in Section 2), then those at risk of causing grave harm have greater responsibilities to take steps to avoid and rectify the harm. On this basis, we may recognize greater responsibilities on the part of managers of large corporations that can severely impact the lives of many, such as by polluting the environment, producing defective airbags, or failing to protect customer data from computer hackers. On this basis, we may even recognize varying degrees of responsibility across different industries. Despite these variations in responsibility, however, the more basic point remains that at the level of application, it is difficult to imagine an actor without any responsibility.

I now turn to the level of promulgation. As in the case of application, there may be a general responsibility on the part of all actors to support adoption of a reconstructed ethical compass, say at a minimum by not actively undermining its adoption. The task of promulgation, however, is more demanding. It requires actively sharing and making useful a reconstructed ethical compass to those

involved in business and economic activity. Accordingly, in contrast to the case of application, the question is whether there are special responsibilities that fall on specific actors to promulgate a reconstructed ethical compass and that guide how they do so.

Three sets of actors come to mind. The first set includes actors that have as part of their purpose or mission the task of shaping norms and standards of conduct in the context of business and economic activity. Consider, for example, professional associations with their codes of conduct or industry associations that aim to self-regulate the conduct of their members. If a reconstructed ethical compass is meant to be applied by all participants in business and economic activity, then those actors who are explicitly and actively engaged in setting norms and standards have a responsibility to promulgate a reconstructed compass as part of those norms and standards. At a minimum, the norms and standards they set need to be consistent with the compass itself.

In this context, business schools present an interesting case to consider. On the one hand, there are those who argue that business education ought to be understood largely as a matter of knowledge, skill, and technique, and as such, business schools themselves should remain neutral with regard to ethics. On this view, it would be inappropriate for business schools to take an active role in promulgation an ethical compass. On the other hand, there are those who argue it would irresponsible not to do so. They argue that business schools are professional schools like law schools and medical schools who are engaged in training professionals who must abide by a code of ethics. Moreover, they argue, even if business students are not professionals in the sense of lawyers or physicians, they nonetheless are learning skills that grant them a fair deal of influence and power, and those who are teaching those skills may be said to have a responsibility to promulgate an ethical compass as well. On this view, it is almost impossible for business education to be neutral with

regard to ethics because normative assumptions underlie the knowledge and skills being taught and the very absence of reference to ethics is a kind of message itself.<sup>1</sup>

The second set of candidates for a special responsibility to promulgate a reconstructed ethical compass are those that may not have the shaping of norms as part of their core purpose or mission, but nonetheless are engaged in that task. Managers at companies that actively work to set norms and standards for their employees are one such example. Leaders in organizations who aim to be role models are another. In both cases, these actors may not see it as their primary purpose to engage in the setting of norms and standards. Instead, they may engage in such activity in service of other goals, such as creating a high-performing workplace culture or minimizing the company's exposure to conduct risk. Nonetheless, they are purposefully helping to set norms and standards. Accordingly, there is a case for holding them responsible for promulgating a reconstructed ethical compass as part of this activity.

The third set of candidates is likely to prompt more debate. The third set includes actors who are not purposefully engaging in the setting of standards and norms, but nonetheless have that effect or possess a unique capacity to do so. There are instances in which business leaders, for example, may fall into this third category. Leaders of organization can command great respect and their behavior is carefully scrutinized. It is not difficult to imagine the members of an organization looking to its leaders for guidance on how to conduct themselves even if the leaders do not intend for this to be the case. While it may be said that leaders should anticipate that they are likely to help set norms and standards for behavior, the point of this example is that even absent such expectations, they are candidates for a special responsibility to promulgate a reconstructed ethical

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<sup>1</sup> For different perspectives on the role and responsibility of business schools in helping to set the norms and standards for business conduct, see Michel Anteby, *Manufacturing Morals: The Values of Silence in Business School Education* (Chicago: University of Chicago Press, 2013); Rakesh Khurana, *From Higher Aims to Hired Hands: The Social Transformation of American Business Schools and the Unfulfilled Promise of Management as a Profession* (Princeton: Princeton University Press, 2007); and Duff McDonald, *The Golden Passport: Harvard Business School, the Limits of Capitalism, and the Moral Failure of the MBA Elite* (New York: Harper Collins, 2017).

compass. Actors in this third category are candidates for special responsibilities not on the basis of their purpose or intent, but rather on the basis of their actual or potential impact on the setting of norms and standards of behavior.

We now arrive at the question of who is responsible for reconstructing an ethical compass at the level of identification – that is, identifying the principles and values to guide the behavior of business and economic actors in the digital age. One candidate is the state. The state claims an authority to regulate the behavior of its citizens, and moreover, if the state fails to protect its citizens against violations by others, the state would be said to have failed in its responsibilities. Can other actors plausibly claim a responsibility to set standards and norms to guide the behavior of others?

The case for other actors seems less straightforward. For example, consider the case of leaders of organizations as described above. They have responsibilities to set standards and norms for the conduct of the members of their organizations. These standards and norms, however, are meant to be consistent with a reconstructed ethical compass, which in turn is meant to cover all areas of business and economic activity. This includes the conduct of business leaders themselves, which raises a potential conflict of interest. When viewed from this broader perspective, it seems few actors can plausibly claim to be sufficiently disinterested in the specification of a reconstructed ethical compass to be said to have a responsibility to participate in its reconstruction.

The relevant question then is not so much whose responsibility it is to help in reconstructing an ethical compass at the level of identification, but rather who has a legitimate claim to be involved or to have their interests taken into consideration. This brings us to the second question at the heart of this paper, which is whose mandate should inform the reconstruction of an ethical compass for the digital age.

## 2. WHOSE MANDATE?

In this section, I take up the question of whose mandate should inform reconstruction of an ethical compass for the digital age at the level of identification – that is, in specifying or identifying the principles and values to guide the behavior of business and economic actors. What emerges from this discussion is a proposal that any version of a reconstructed ethical compass include two principles: a principle to do no harm and a principle to respect human rights.

### 2.1. *Harm*

In debates about whose mandate should inform government decisions, one principle that is frequently proposed is the “principle of affected interests” or the “all-affected principle.” In its basic formulation, the principle states that “everyone who is affected by the decisions of a government should have the right to participate in that government.”<sup>2</sup> If we were to transpose the principle to the reconstruction of an ethical compass, we may conclude that all those whose interests are affected by business and economic activity ought to participate in the reconstruction of an ethical compass for the digital age. The challenge then is how this ought to be done. Unless the reconstruction of an ethical compass involves something like an actual decision-making process, as in the case of governments where parties can represent their interests, some other approach is required.

One approach put forward in the scholarly literature is to follow the social contract tradition in political theory, and to frame the construction of an ethical compass for business activity in terms of a hypothetical decision-making procedure. The thought, roughly, is to imagine what participants would specify as principles and values to guide and govern the conduct of business actors if they were able to represent their interests in a decision-making procedure that would establish those

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<sup>2</sup> Robert Goodin, “Enfranchising All Affected Interests, and Its Alternatives,” *Philosophy and Public Affairs* vol. 35, no. 1 (2007): 40-68, p. 51.



principles. This approach has been used for specifying the responsibilities of corporations,<sup>3</sup> as well as principles for the conduct of business more generally.<sup>4</sup> While the metaphor of a “social contract” is powerful and helpful as a kind of shorthand in practice, as I have argued elsewhere, there is reason to doubt that the social contract approach succeeds in grounding and specifying the responsibilities of business actors.<sup>5</sup>

An alternative proposal is to look to the principle to do no harm as a way to incorporate the interests of all those affected by business and economic activity in reconstructing an ethical compass. A harm is “the setting back” of an interest or something in which a person has a stake.<sup>6</sup> The principle to do no harm is among the most widely accepted ethical principles that applies to all moral agents, and as I have argued elsewhere there is much to recommend taking the principle as a starting point for specifying standards that ought to apply to multinational enterprises (MNEs).<sup>7</sup> One point in its favor is that the principle constrains the activities of MNEs by applying to the decisions of managers in their capacity as moral agents. That is, insofar as managers are under a duty not to harm others in their capacity as moral agents, this duty extends to the decisions they take regarding the activities of MNEs. Such an approach to the responsibilities of MNEs allows us to avoid more contentious debates about whether MNEs themselves have moral duties.<sup>8</sup> We need not assume anything about the status of MNEs as moral agents because the principles apply to the

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<sup>3</sup> Thomas Donaldson, *Corporations & Morality* (Englewood Cliffs: Prentice-Hall, 1982).

<sup>4</sup> Thomas Donaldson and Thomas Dunfee, *Ties That Bind: A Social Contracts Approach to Business Ethics* (Boston: Harvard Business School Press, 1999). For an overview, see Ben Wempe, “Contractarian Business Ethics Today,” *Normative Theory and Business Ethics*, ed. Jeffery Smith (UK: Rowman & Littlefield, 2009): 73-92.

<sup>5</sup> Nien-hê Hsieh, “The Social Contract Model of Corporate Purpose and Responsibility,” *Business Ethics Quarterly*, vol. 25, no. 4 (2015): 433-60.

<sup>6</sup> Joel Feinberg, *Harm to Others* (Oxford: Oxford University Press, 1984), p. 34.

<sup>7</sup> Nien-hê Hsieh, “Does Global Business Have a Responsibility to Promote Just Institutions?” *Business Ethics Quarterly*, vol. 19, no. 2 (2009): 251-73; Nien-hê Hsieh, “Multinational Enterprises and Corporate Responsibility: A Matter of Justice?” *Morality and Global Justice: The Reader*, ed. Michael Boylan (Boulder: Westview Press, 2011): 185-204; and Nien-hê Hsieh, “Multinational Enterprises and Incomplete Institutions: The Demandingness of Minimum Moral Standards,” *Business Ethics*, 2<sup>nd</sup> ed., ed. Michael Boylan (Hoboken: John Wiley and Sons, 2013): 409-22.

<sup>8</sup> Nien-hê Hsieh, “Corporate Moral Agency, Positive Duties, and Purpose,” *The Moral Responsibility of Firms*, ed. Eric Orts and N. Craig Smith (Oxford: Oxford University Press, 2017).

managers who direct the activities of MNEs. Given that harms are setbacks to individuals' interests, one way to incorporate the interests of all economic actors in a reconstructed ethical compass is to specify the principle to do no harm as part of that compass.

## 2.2. *Human Rights*

In this section, I outline the case for including respect for human rights as part of a reconstructed ethical compass alongside a principle to do no harm. Inclusion of human rights is another way to address concretely the question of whose mandate should inform a reconstructed ethical compass.

In debates about business and human rights, there are two ways in which human rights are understood. On one approach, the term "human rights" is used to refer to universal moral rights, such as "basic rights such as liberty, physical security, and subsistence."<sup>9</sup> Understood as such, human rights refer to those moral rights that are particularly weighty. They ground corresponding obligations to respect them on the part of all moral agents, which in this case extends to business actors. That is the way in which they are meant to place constraints on business actors.

Another way to understand human rights is in terms of existing human rights practice. On this approach, human rights refer to the rights enumerated in the Universal Declaration of Human Rights and subsequent international treaties and documents.<sup>10</sup> They include security rights (e.g., freedom from enslavement and a right to bodily integrity); due process rights (e.g., a right to a fair and public hearing); liberty rights (e.g., freedom of movement and freedom of thought, conscience and religion); political rights (e.g., a right to vote); equality rights (e.g., protection against

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<sup>9</sup> Denis Arnold, "Corporations and Human Rights Obligations," *Business and Human Rights Journal* vol. 1, no. 2 (2016): 1-21, p. 9-10.

<sup>10</sup> The Universal Declaration of Human Rights; The International Covenant on Civil and Political Rights; The International Covenant on Economic, Social, and Cultural Rights – collectively referred to as the International Bill of Human Rights – and The Genocide Convention. See Allen Buchanan, *The Heart of Human Rights* (New York: Oxford University Press, 2013), p. 6. Fact Sheet No.2 (Rev.1), "The International Bill of Human Rights," <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>.

discrimination); and social rights (e.g., rights to education, to work, and to an adequate standard of living).<sup>11</sup> While some of these rights correspond to what are widely recognized as antecedently existing basic moral rights, such as a right to physical security, not all these rights are legal versions of basic moral rights.<sup>12</sup> Consider, for example, a right to vote. It is included on the list of human rights enumerated in the Universal Declaration of Human Rights, but is not commonly understood as a basic moral right. On this view, human rights are not simply antecedent basic moral rights that are given legal expression. Instead, they require institutional recognition as well.<sup>13</sup>

On this second approach, the primary bearers of obligations for human rights are states. The correlative obligations on the part of states are threefold: states must refrain from infringing upon these rights (e.g., not engage in torture); states must fulfill the claims embodied in these rights (e.g., provide education); and states must protect citizens against the threats of third parties that limit their enjoyment of these rights. Under the contemporary human rights regime, business actors also have responsibilities in relation to human rights, but they are far less demanding. As articulated in the *United Nations “Protect, Respect and Remedy” Framework for Business and Human Rights* and the *Guiding Principles on Human Rights on Business and Human Rights*, business enterprises have a “responsibility to respect human rights,” which “means acting with due diligence to avoid infringing on the rights of others, and addressing harms that do occur.”<sup>14</sup>

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<sup>11</sup> James Nickel, “Human Rights,” *Stanford Encyclopedia of Philosophy* (Spring 2014 edition), ed. Edward Zaltz [Online]. Available: <http://plato.stanford.edu/archives/spr2014/entries/rights-human/> [3 November 2014]

<sup>12</sup> Allen Buchanan, *The Heart of Human Rights* (New York: Oxford University Press, 2013), p. 14.

<sup>13</sup> This distinction parallels the debate in philosophy and law about the nature of human rights. For a helpful overview, see Rowan Cruft, S. Matthew Liao, and Massimo Renzo, “The Philosophical Foundations of Human Rights: An Overview,” *Philosophical Foundations of Human Rights*, ed. Rowan Cruft, S. Matthew Liao, and Massimo Renzo (Oxford: Oxford University Press, 2015).

<sup>14</sup> United Nations, *The UN “Protect, Respect and Remedy” Framework for Business and Human Rights* [Online]. Available: <http://198.170.85.29/Ruggie-protect-respect-remedy-framework.pdf> [3 November 2014]. *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* [Online]. Available: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) [29 December 2014].

Elsewhere, I have argued for adopting this second approach when trying to determine the responsibilities of multinational enterprises (MNEs) for human rights.<sup>15</sup> This is despite the objection raised by proponents of the first approach that in so doing, we are minimizing the responsibilities of MNEs. The rationale for adopting this second approach is as follows. To begin, I do not deny that moral duties constraint the activities of MNEs. Indeed, as discussed above, there is reason to hold that a duty not to harm places constraints on the range of permissible activities that may be undertaken by MNEs. Instead, the basic point is that human rights embody a powerful ideal and carry the force of institutional recognition. That is, the appeal to human rights is made in part because of their status as institutionally recognized rights in contemporary practice. If these features of human rights are to be brought to bear in framing the responsibilities of MNEs, it is by viewing human rights through the lens of contemporary practice as opposed to viewing them simply as basic moral rights.

I now consider the case for including a principle to respect human rights along these lines in a reconstructed ethical compass not just for MNEs, but for business enterprises more generally. Recall that when examining whose responsibility it is to reconstruct an ethical compass at the level of identification, the primary candidate was the state. The rationale was that the state claims an authority to regulate the behavior of its citizens, and moreover, if it failed to protect its citizens against violations by others, the state would be said to have failed in its responsibilities. To be certain, there is much debate about what states owe their citizens. In practice, however, states do at least formally acknowledge the contemporary human rights regime even if they may not fully comply with it. Accordingly, if there is a set of principles that all states plausibly can be said to have a responsibility to uphold, they are embodied in the contemporary human rights regime. In turn, if

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<sup>15</sup> Nien-hê Hsieh, "Should Business Have Human Rights Obligations?" Special Issue on Business and Human Rights. *Journal of Human Rights* vol. 14, no. 2 (2015): 218-36; Nien-hê Hsieh, "Business Responsibilities for Human Rights: A Commentary on Arnold," *Business and Human Rights Journal* vol. 2, no. 2 (2017): 297-309.

states have a responsibility to reconstruct an ethical compass, then there is a case for including respect for human rights in a reconstructed ethical compass alongside the principle to do no harm.

### **3. WHAT'S DIFFERENT ABOUT THE DIGITAL AGE?**

The discussion thus far has taken for granted the need for reconstructing an ethical compass in the digital age. Given the pace of technological change and the scale and scope of the impact of the digital economy on people's lives, it is not uncommon to hear about the need to develop a new ethics for the digital age. One may ask, however, whether there is in fact a need for reconstructing an ethical compass in the first place. Is the digital age in fact so different?

To address this question, I explore briefly key ethical issues that arise with three trends associated with the digital age. The first is the disappearance of work owing to artificial intelligence and automation. The second is the challenge of maintaining privacy in a digital age. The third is the rise and prevalence of social media. For each trend, the need for reconstruction applies at one level, say application or identification, but not at another. In turn, this suggests that while there is a general case to be made for reconstructing an ethical compass for the digital age, there is reason not to overstate the case and to be precise in specifying at what level the reconstruction needs to occur.

#### *3.1. The Disappearance of Work*

One trend that has received considerable attention is the disappearance of work owing to the impact of artificial intelligence, machine learning, and improved robotics. According to one study from Oxford University, 47% of jobs in the United States are at high risk of being replaced by computerization over the next twenty years.<sup>16</sup> Another study by McKinsey and Company estimates

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<sup>16</sup> Carl Benedikt Frey and Michael A. Osborne, *The Future of Employment: How Susceptible Are Jobs to Computerisation?* (Oxford: The Oxford Martin Programme on the Impacts of Future Technology, 2013), p. 44.

that 50% of current work activities are “technically automatable by adapting currently demonstrated technologies” and that “6 out of 10 current occupations have more than 30% of activities that are technically automatable.”<sup>17</sup> In its study of this trend, the World Bank connects the impact of new technologies at work with inequality, noting that around two-thirds of jobs in the developing world are susceptible to automation, and that declining shares of labor in national income are associated with greater inequality.<sup>18</sup>

This potential for widespread technological unemployment has prompted a number of debates. One debate concerns the value of work in people’s lives – e.g., is it an important source of meaning or self-respect or is it largely a means to earn a livelihood? Another debate concerns the responsibilities of employers – e.g., should employers use technology to enhance the work done by employees rather than replace them? In addition, there are policy proposals such as a universal basic income to help ensure a reasonable standard of living for those who are not able to find sufficient employment. There also are those who point out that not all automation need be a source of concern if it frees individuals from having to perform work that is dirty, dangerous, or dull. In the best-case scenario, according to some, technology may free people to engage in creative pursuits and advance even further our state of knowledge.

Debates of this sort, however, are not new. For example, Thomas Paine – the pamphleteer of the American Revolution – advocated for something like a basic income.<sup>19</sup> In the early 1800s in England, Luddites smashed mills out of fear that automated textile machinery would replace higher skilled workers with lower skilled ones. Still others focused on the promise of machinery. In “The Soul of Man Under Socialism,” Oscar Wilde writes that “machinery must work for us in coal mines

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<sup>17</sup> McKinsey Global Institute, *Jobs lost, Jobs Gained: Workforce Transitions in a Time of Automation* (McKinsey and Company, 2017), p. 2

<sup>18</sup> World Bank, *World Development Report 2016, Digital Dividends* (Washington, D.C.: World Bank Group, 2016), p. 21-23.

<sup>19</sup> *Agrarian Justice* (1797).

and do all sanitary services, and be the stoker of steamers, and clean the streets, and run messages on wet days and do anything that is tedious or distressing.”<sup>20</sup> While the underlying forces may have changed, mass unemployment and worker displacement themselves are not new phenomena. Furthermore, traditional patterns of employment are likely to persist in some sectors. Consider, for example, apparel manufacturing in low-wage countries, such as Bangladesh.<sup>21</sup> Given the difficulties in developing robotic technology to sew cloth and the continued low cost of labor in these countries, the displacement of labor by machinery is not imminent.<sup>22</sup>

This is not to deny the potential for widespread disruption in employment patterns and the serious concern with growing inequality in the digital age. Rather, the point is that for some trends, such as the disappearance of work, it may be that the basis for concern has not fundamentally changed in the digital economy. That is, the principles and values that ground our concern with the disappearance of work themselves may remain the same. There is no need for reconstructing an ethical compass at the level of identification. This, however, does not rule out the possibility of reconstructing an ethical compass at other levels, such as the level of application by thinking of new solutions or ways to realize underlying values and principles. As an illustration, I call attention to one proposal that reduces the reliance on labor for one’s income that has not received as much attention in contemporary debates, which is a regime of a property-owning democracy.<sup>23</sup>

To motivate this proposal, I turn to the work of John Rawls, the preeminent philosopher of justice in the twentieth century. In the revised edition of *A Theory of Justice*, John Rawls writes there are two items he would handle differently if he “were writing *A Theory of Justice* now.” One of those

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<sup>20</sup> Oscar Wilde, *The Collected Works of Oscar Wilde*, ed. Robert Ross (London: Routledge/Thoemmes, vol. 8, p. 298.

<sup>21</sup> Nien-hê Hsieh and Saloni Chaturvedi, “The Ready-Made Garment Industry: A Bangladeshi Perspective (A),” Harvard Business School Case 317-052 (March 2017).

<sup>22</sup> “Stitches in time,” *The Economist* (August 24, 2017).

<sup>23</sup> What follows draws from Nien-hê Hsieh, “Justice at Work: Arguing for Property-Owning Democracy,” *Journal of Social Philosophy* vol. 40, no. 3 (2009): 397-411. See also Nien-hê Hsieh, “Work, Ownership, and Productive Enfranchisement,” *Property-Owning Democracy: Rawls and Beyond*, ed. Martin O’Neill and Thad Williamson (Hoboken: John Wiley and Sons, 2012): 149-62.

would be “to distinguish more sharply the idea of a property-owning democracy ... from the idea of a welfare state.”<sup>24</sup> Rawls is concerned to correct the misconception that welfare-state capitalism satisfies the requirements of justice as fairness. Welfare-state capitalism permits ownership of the means of production in the hands of a few, and a decent standard of living for the least advantaged is achieved through redistribution of income.<sup>25</sup> For Rawls, if there is be private ownership of the means of production, justice requires instead property-owning democracy. What distinguishes property-owning democracy from welfare-state capitalism is the distribution of the ownership of productive assets. In contrast to welfare-state capitalism, property-owning democracy seeks to maintain the widespread ownership of productive assets over time. Rawls writes, “the intent is not simply to assist those who lose out through accident or misfortune (although that must be done), but rather to put all citizens in a position to manage their own affairs on a footing of a suitable degree of social and economic equality.”<sup>26</sup>

Whereas contemporary debates about the disappearance of work have focused on responsibilities to help maintain employment or to ensure that those without labor income are able to achieve an adequate standard of living, the idea of property-owning democracy reduces reliance on labor income altogether. Insofar as the proposal has not received adequate attention, it represents a reconstructed ethical compass at the level of application even if the underlying principles and values for why the disappearance of work is a source of concern do not involve a reconstruction at the level of identification.

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<sup>24</sup> John Rawls, *A Theory of Justice*, revised ed. (Cambridge: Belknap Press, 1999), p. xiv.

<sup>25</sup> A capitalist welfare state, according to Rawls, “permits a small class to have a near monopoly of the means of production.” A property-owning democracy is an economic regime that seeks to ensure “the widespread ownership of productive assets and human capital (that is, education and trained skills) at the beginning of each period, all this against a background of fair equality of opportunity.” See John Rawls, *Justice as Fairness*, ed. Erin Kelly (Cambridge: Belknap Press, 2001), p. 139. See also Richard Krouse and Michael McPherson, “Capitalism, Property-Owning Democracy, and the Welfare State,” *Democracy and the Welfare State*, ed. Amy Gutmann (Princeton: Princeton University Press, 1988): 79-106. For a recent, wide-ranging analysis of property-owning democracy, see Martin O’Neill and Thad Williamson, eds., *Property-Owning Democracy: Rawls and Beyond* (Hoboken: John Wiley and Sons, 2012).

<sup>26</sup> John Rawls, *Justice as Fairness*, ed. Erin Kelly (Cambridge: Belknap Press, 2001), p. 139.



### *3.2. Privacy in a Digital Age*

Another trend that is often discussed in association with the digital economy is the challenge of maintaining privacy. With the growth in the amount of user data that is collected and sophistication in ways to access and utilize that data, there are concerns that individuals have increasingly less anonymity in their economic interactions and are at far greater risk for details of their lives to be widely exposed, resulting in everything from public shame to real harm.

There is no doubt that an ethical compass for the digital age needs to address this phenomenon. As discussed in the case work, however, one may ask how much what is required of a reconstructed ethical compass at the level of identification is, in fact, new. The fundamental interest that individuals have in maintaining their privacy is not new, and many of issues raised by the digital age concern the proliferation of information about individuals and ways to access and protect that information. At the same time, in contrast to the case of work, there is reason to believe that the form that information takes in the digital ages raises novel challenges that require reconstructing an ethical compass at the level of identification.<sup>27</sup>

In February 2016, a U.S. federal judge ordered tech giant Apple to help unlock one of its iPhones that had been used by a suspected terrorist who, along with his wife, killed fourteen people in San Bernardino, California. The iPhone was running the operating system iOS 9 and law enforcement officials claimed they could not access potential evidence on the phone without Apple's assistance. The operating system enabled encryption which prevented Apple, as well as law enforcement authorities, from accessing customer data on the device without permission. The suspected terrorist had been killed in a shootout with law enforcement agents.

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<sup>27</sup> The next two paragraphs draw from Henry McGee, Nien-hê Hsieh, and Sarah McAra, "Apple: Privacy vs. Safety (A)," Harvard Business School Case 316-069, March 2016. (Revised November 2017).

Apple CEO Tim Cook resisted complying with the request to develop software to unlock the phone. After the request, Cook stated, “At stake is the data security of hundreds of millions of law-abiding people and setting a dangerous precedent that threatens everyone’s civil liberties.”<sup>28</sup> In a message to Apple’s customers, Cook wrote, “The government suggests this tool could only be used once, on one phone, but that’s simply not true. Once created, the technique could be used over and over again, on any number of devices.”<sup>29</sup> As he had explained earlier after the launch of iOS 9, “National security always matters, but the reality is that if you have an open door in your software for the good guys, bad guys get in there, too.”<sup>30</sup>

As noted above, individuals have had a long-standing interest in maintaining their privacy. Article 12 of the Universal Declaration of Human Rights, for example states, “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation,” and “Everyone has the right to the protection of the law against such interference or attacks.”<sup>31</sup> Given the strong individual interest in maintaining one’s privacy, the law in most jurisdictions has evolved to set standards for when it is permissible for government officials to gain information about individuals, as in the case of a criminal investigation.

What seems to be different in the San Bernardino case is that even if this standard is met, by enabling access to the shooter’s iPhone, Apple is now putting at risk the privacy of all of its users, and not just simply providing information about one of its product’s users. To be certain, long-standing responsibilities on the part of business are still relevant. As noted, Apple has a responsibility not to disclose information to law enforcement agencies unless the relevant standard

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<sup>28</sup> Amanda Holpuch, “Tim Cook says Apple’s refusal to unlock iPhone for FBI is a ‘civil liberties’ issue,” *The Guardian*, February 22, 2016, <http://www.theguardian.com/technology/2016/feb/22/tim-cook-apple-refusal-unlock-iphone-fbi-civil-liberties>.

<sup>29</sup> Tim Cook, “A Message to Our Customers,” February 16, 2016.

<sup>30</sup> Tim Cook interview by Robert Siegel, “Apple CEO Tim Cook: ‘Privacy Is A Fundamental Human Right,’” *NPR*, October 1, 2015, <http://www.npr.org/sections/alltechconsidered/2015/10/01/445026470/apple-ceo-tim-cook-privacy-is-a-fundamental-human-right>.

<sup>31</sup> The Universal Declaration of Human Rights.

for disclosure has been met. Apple also may have a responsibility to help protect its users' information more generally by putting into place various cybersecurity measures.

The issue raised by this case is that the nature of technology now puts these responsibilities in tension such that the basic principles governing privacy for businesses may need to be revisited. This is a feature of the digital nature of the information and technology involved in its protection. As described by one expert:

[A]ny backdoor Apple might design would likely require the company to store some sort of master access key—or even ... one for every phone it sells ... . [T]hese keys might need to be carefully transported from the factory in China, to a locked and guarded room at Apple HQ in Cupertino, California. They would be kept isolated from the Internet to protect them from hackers, and Apple would have to constantly monitor its own employees to prevent abuse. None of this is cheap, and the stakes are high ... .<sup>32</sup>

Here, it seems, is a case in which many of basic ethical issues may not be different in the digital age, but new technology calls for a reconstructed ethical compass by challenging the ways in which we have come to frame the ethical issues at the level of identification.

### *3.3. The Pervasiveness of Social Media*

In thinking about reconstructing an ethical compass for the digital age, the two examples discussed thus far concern whether the digital age calls for reconstruction at the level of application and at the level of identification. In order to cover the range of ways in which the digital age may call for

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<sup>32</sup> Matthew Green, "Is Apple Picking a Fight With the U.S. Government?," *Slate*, September 23, 2014, [http://www.slate.com/articles/technology/future\\_tense/2014/09/ios\\_8\\_encryption\\_why\\_apple\\_won\\_t\\_unlock\\_your\\_i\\_phone\\_for\\_the\\_police.html](http://www.slate.com/articles/technology/future_tense/2014/09/ios_8_encryption_why_apple_won_t_unlock_your_i_phone_for_the_police.html), accessed August 2015.

reconstructing an ethical compass, I now turn to consider the need for reconstruction at the level of promulgation by looking at the case of social media companies.<sup>33</sup>

In a recent post titled “Hard Questions: What Effect Does Social Media Have on Democracy?,” Samidh Chakrabarti, head of civic engagement at Facebook, summarized the concerns that have driven the increased scrutiny of social media companies. One is the concern with “false news” – that “the same tools that give people more voice can sometimes be used, by anyone, to spread hoaxes and misinformation.” A second is the concern is that social media “creates echo chambers where people only see viewpoints they agree with.” A third concern is that of “unequal participation.” As Chakrabarti writes, “not everyone is using their voice equally. Take women. They represent a majority of the population, yet are under-represented in public political dialogue on Facebook.” He continues, “if politicians mistake the views of a few with the views of many, that can make for bad public policy. Vulnerable populations could end up ignored, and fringe groups could appear mainstream.”<sup>34</sup>

What is especially striking in the case of social media companies is that these concerns arise about their impact on norms and standards without their having provided any content. The provision of content is by their users, and companies like Facebook are reluctant to shape the content themselves. As explained by Chakrabarti, “In the public debate over false news, many believe Facebook should use its own judgment to filter out misinformation. We’ve chosen not to do that because we don’t want to be the arbiters of truth, nor do we imagine this is a role the world would want for us.”<sup>35</sup> Social media companies thus find themselves as candidates for having special responsibilities for promulgating a reconstructed ethical compass as part of the third set of actors

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<sup>33</sup> Social media refer to user-generated content that are shared by users through a platform maintained by an organization and that help to facilitate social networks across users.

<sup>34</sup> <https://newsroom.fb.com/news/2018/01/effect-social-media-democracy/>

<sup>35</sup> <https://newsroom.fb.com/news/2018/01/effect-social-media-democracy/>

discussed above (Section 1.2.) – that is, actors who are not purposefully engaging in the setting of standards and norms, but nonetheless have that effect or possess a unique capacity to do so. In turn, the challenge is how to engage in promulgation in a way that respects the principles of a reconstructed ethical compass, including a duty not to harm and to respect human rights.

#### **4. CONCLUSION**

The digital age has immensely changed the nature of business and economic activity and continues to do so at an enormous pace. All this brings with it great promise as well as risk. Under such circumstances, it is only natural to ask who bears responsibility for reconstructing an ethical compass and whose mandate should inform that reconstruction.

The aim of this paper is to inform and shape debates about answers to these questions. On the question of determining who bears responsibility for reconstructing an ethical compass, I distinguished three levels at which to locate responsibilities across various actors: the identification of principles and values that comprise a reconstructed compass, the promulgation of a reconstructed compass, and the application of a reconstructed compass. While all actors have responsibilities for applying a reconstructed ethical compass, there is reason to hold that responsibilities for promulgation and identification apply to a smaller set of actors. On the question of determining whose mandate should inform reconstruction of an ethical compass, what emerges from this discussion is a proposal that any version of a reconstructed compass include two principles: a principle to do no harm and a principle to respect human rights. I then illustrated how we might go about reconstructing an ethical compass for the digital age by isolating just what it is that requires reconstruction in the digital age. After all, much of the economy is still not digital and much of what is now digital may not be that different with respect to the ethical issues raised.

This paper has covered a great deal of ground rather quickly and leaves many issues to be addressed in further depth. Nonetheless, my hope is that it provides enough of a framework to allow us to proceed fruitfully in the task we collectively face of reconstructing an ethical compass for business and economic activity the digital age.